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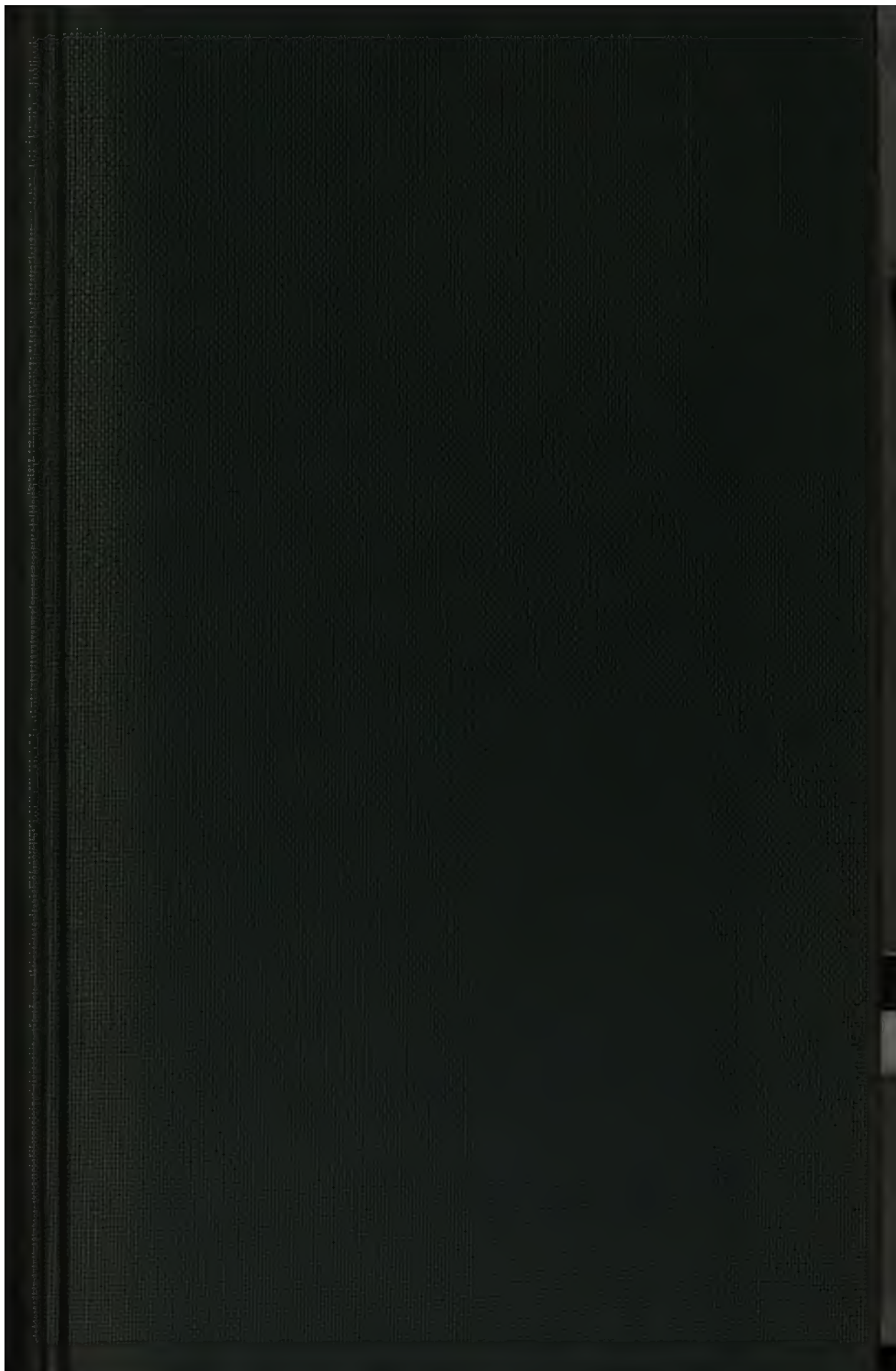
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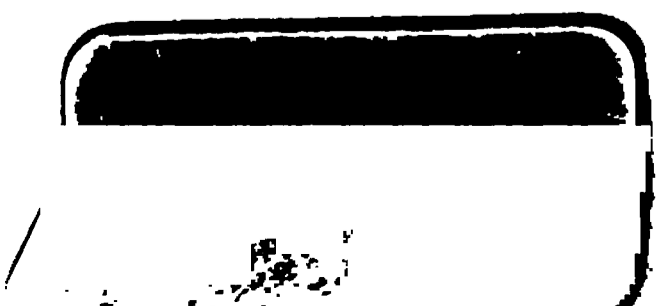


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A COMPLETE

SYSTEM OF PLEADING.

VOL. VII.

A COMPLETE

SYSTEM OF PLEADING.

VOL. VII.

A COMPLETE
SYSTEM OF PLEADING:

COMPREHENDING THE MOST
APPROVED PRECEDENTS and FORMS of PRACTICE,
CONSISTING OF
SUCH AS HAVE NEVER BEFORE BEEN PUBLISHED:

WITH AN
INDEX to the PRINCIPAL WORK,
INCORPORATING AND MAKING IT A CONTINUATION OF
TOWNSHEND's and CORNWALL's TABLES,
TO THE PRESENT TIME;

AS WELL AS AN
INDEX of REFERENCE to all the ANCIENT and
MODERN ENTRIES extant.

By JOHN WENTWORTH, Esq.
OF THE INNER TEMPLE, BARRISTER AT LAW.

*Ne quæ Studio dispôsta fidei
Intellecta priusquam sint contempta relinquo.* LUCRET.

V O L. VII.
CONTAINING
DEBT. DETINUE.

L O N D O N :
PRINTED FOR G. G. AND J. ROBINSON, PATERNOSTER-ROW.

1798.

R. Mackay
Q. C. 1868
J. S. C. 1868
An



THE practical Directions to the Fifth Volume, containing part of COVENANT and DEBT, will serve for the most part of this Volume, which takes up the remainder of the Precedents on SPECIALTIES from INDEMNITY BONDS (Fifth Volume), beginning with REPLEVIN BONDS, and ending the two other principal Heads, DEBT ON RECORDS, and on PENAL STATUTES, with PLEAS to the respective Declarations, or under the respective Divisions.

The Heads COVENANT ON ARTICLES of AGREEMENT, LEASES, INDENTURES, MORTGAGES, &c. are so similar to the same Precedents in Debt on the same Instruments that they agree in this respect, where the Student is at a loss for a Form under either Head (the Author thinks), that pursuing the Directions in the Fifth Volume, by a careful search under *some* or *all*, he cannot fail to find it.

And in another Leading Title, DEBT ON BOND: If the Precedent wanted is on an *Arbitration Bond*, it will be useful to run over the Forms under the Head of DEBT ON AWARD, being on the same *subject matter*, and the Pleas to each Declaration under *each* Head, where they follow, or among the Pleas at the end of the INDEX to Debt; which are first analyzed, to shew the *Nature* of the Plea, as in *Covenant*, and then distributed into an Order similar to the Declarations. It is clear that great Convenience will result to the
Prac-

Practitioner from this Method, particularly in these two Actions, *Covenant* and *Debt*.

THE Direction here recommended will be still more necessary for *Debt on Bonds of Indemnity*; for *Bail Bonds*, *Bastardy Bonds*, *Bottomree Bonds*, *Replevin Bonds*, and *Bonds for the Performance of Conditions and Covenants* are all, except the last; (and some of those) are merely Bonds of Indemnity; but more minutely subdivided for the Pupil.

THE same Direction must be strictly observed respecting the PLEAS, which will either follow the Declaration under its *appropriate* Head, or at the End of the Declarations in this Volume, which, together with the former, will be found in the INDEX under that Subdivision: And further, the INDEX to the Pleas under every Head, will point out the *Nature* of the Plea wanted, as Plea of *Tender*, *Payment*, &c. &c.

THE remaining principal Division, namely, DEBT ON PENAL STATUTES, I have preferred an *Alphabetical Order*, which is more clear for the Pupil than the Chronological Order adopted by Reporters, and Authors of other Law Treatises.

I DO not recollect any other *leading* Direction that can be necessary, unless as to the Declarations by and against HEIRS and DEVISEES, and EXECUTORS and ADMINISTRATORS, they are chiefly on Bonds, and therefore I have made them distinct Heads, to follow Bonds in the INDEX; and in DEBT ON SIMPLE CONTRACTS, which are mostly on Agreements *unsealed*
 viz

viz. on *Parol Demise* for Rent, &c. I have taken all possible pains, by references, to keep them separate from the *Specialties*.

In general it may suffice to add, that the Action of *Assumpsit* is so universally substituted for this of *Debt* on *Simple Contracts*, where *Indebitatus Assumpsit* will lie, that the Action of Debt on all such Contracts is nearly out of Use, from the Circumstance of the Defendant's being entitled "to wage his law" if he chuses. However Debt seems to be the proper Action on BYE LAWS, FINES, FOREIGN JUDGMENTS, PORT DUES, and other Contracts, *not under seal*; yet *Assumpsit* will also lie for these.

THIS Volume closes with another General Head, DETINUE, which is an old Action, almost out of Use for the same reason above given, that the Defendant "may wage his law," and gives place to the more modern Action of *Trover*, which see under the Head of TORTS; although it seems DETINUE is still the *only* Action where the Plaintiff goes for the *very thing detained* (except *Replevin* in the *Detinet*, which last being a Remedy grounded on Distress, differs it from *Detinue*); because the Plaintiff only recovers *Damages* in *Trover*, and *not the Thing detained*. I have given some of the Precedents of a more modern Date.

In this Stage of the Publication I think it necessary to observe, that I hope to complete my Work in three additional Volumes, containing REPLEVIN—TRESPASS, where the personal Actions end.—HABEAS FACIAS—ERROR—EJECTMENT—QUARE IMPEDIT—

IMPEDIT—with **REAL ACTIONS**, of such as are in Use—and **PRACTICAL FORMS** in the *Civil* and *Criminal* Division.

J. WENTWORTH.

**Inner Temple,
2d April, 1798.**

DEBT.

ON REPLEVIN BOND.

MIDDLESEX, to wit. John Hunsdon, assignee of Samuel Plumbe, esquire, and Nathaniel Thomas, esquire, late sheriff of the county of Middlesex, complains of Robert Hislop, being, &c. of a plea that he render to the said John ten pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c.; for that whereas after the twenty-fourth day of June, A. D. 1738, to wit, on the twenty-sixth day of May, A. D. 1777, at the parish of St. Clement Danes, in the said county of Middlesex, the said John, as bailiff of Joseph Jarvis Clarke, esquire, distrained the goods and chattels of one Robert Hughes, for a certain sum of money then due to the said Joseph Jarvis for rent, and the said goods and chattels being so distrained, the said Robert Hughes afterwards and within the space of five days then next following, that is to say, on the thirty-first day of May, in the said year of Our Lord 1777, at the parish aforesaid, made his complaint to the said Samuel Plumbe and N. T. then sheriff of the said county of Middlesex, out of the county court of the said sheriff, of the taking and unjustly detaining of the goods and chattels of the said Robert Hughes by the said John, and prayed the said then sheriff that the said goods and chattels might be forthwith replevied by him the said sheriff, and delivered to him the said Robert H. and thereupon the said Samuel Plumbe and N. T. then being sheriff of the county of Middlesex, according to the form of the statute in such case lately made and provided, did take from the said Robert H. and the said Robert Hislop, and one Thomas Ruddock, two responsible persons, sureties, a bond in double the value of the said good and chattels so distrained as aforesaid, the value of the said goods and chattels being first ascertained by the oath of a credible witness, duly sworn according to the form of the statute in such case made and provided, to wit, the said Robert Hughes, Robert Hislop, and Thomas Ruddock, in the said year of Our Lord 1777, at the parish aforesaid, in the county aforesaid, by their certain writing-obligatory, sealed with their seals, did jointly and severally acknowledge themselves to be held and firmly bound unto the said S. P. and N. T. then sheriff of the said county of Middlesex, in the said ten pounds, to be paid to the said sheriff when they the said Robert

Declaration in debt by assignee of a replevin bond.

The replevin.

the bond.

and condition.

Plaint levied in
inferior court.

removed by re-
sale into the
court of B. R.

Declaration in
replevin.

bert II. Robert Hislop, and T. R. should be thereunto afterward requested, with a condition thereunder written, that if the said Robert Hughes did appear at the then next county court for the county of Middlesex, to be held at the house known by the sign of the Three Tuns, in Brook-street, near Holborn, in the county aforesaid, and did prosecute his action with effect against the said John, for taking and unjustly detaining of his goods and chattels to wit, the several goods and chattels in the schedule or inventory thereof thereon indorsed particularly mentioned and expressed, and did make a return thereof, if return thereof should be adjudged by law, and did also save and keep harmless and indemnified the said sheriff of Middlesex, his deputies, and bailiffs, touching and concerning the replevying and delivery of the said goods and chattels, then the said writing-obligatory should be void and of no effect, or else should be and remain in full force, and thereupon the said sheriff afterwards, that is to say, on the said thirty-first day of May, in the year last aforesaid, at Westminster aforesaid, at the prayer of the said Robert Hughes, replevied and made deliverance of the said goods and chattels to the said Robert Hughes, according to the duty of his said office; and afterwards, to wit, at the next county court for the said county of Middlesex, to wit, at the court of the said sheriff held at the house known by the sign of the Three Tuns, Brook-street, near Holborn, in the said county, on the twenty-sixth day of June, in the year aforesaid, before H. Atkins, Robert Wolfe, James Jones, and Thomas Druce, the suitors of the said court, without the writ of the said lord the king levied his plaint against the said John for the taking and unjustly detaining of the goods and chattels of the said Robert Hughes, and for pledges as well for prosecuting his said plaint as for returning the said goods and chattels, if return thereof should be adjudged by law, to wit, the said Robert Hislop and Thomas Ruddock, the record of which said plaintiff was duly had and removed into the court of our lord the king, before the king himself, by virtue of the writ of our lord the king of *recordari facias loquelam*, before that time issued out of the chancery of the said lord the king at Westminster, directed to the sheriff of Middlesex, and returnable and returned before the said lord the king, before the king himself on the morrow of the Ascension of the Lord, wheresoever our said lord the king shall then be in England, and thereupon the said Robert Hughes afterwards, in Trinity term, in the eighteenth year of the reign of our lord the now king, in the court of our lord the king, before the king himself, by P. J. his attorney, declared against the said J. in the said plea of taking and unjustly detaining, and by the said declaration he the said Robert H. by the said P. J. his then attorney, complained that the said John on the twenty-sixth day of May, A. D. 1777, at the parish of St. Clement Danes, in the county aforesaid, in a certain dwelling-house then then in the possession of the said Robert, took the goods and chattels, to wit, [here set out the goods distrained] of the said Robert of the value of fifty pounds, and unjustly detained the same against

pages and pledges until, &c. wherefore the said Robert said he was injured and had sustained damages to the value of one hundred pounds, which said goods and chattels specified in the said declaration were the same goods and chattels in the said schedule or inventory indorsed upon the said writing-obligatory particularly mentioned and expressed, and afterwards in the said Trinity term, in the said eighteenth year of the reign of our lord the now king, in the court of our said lord the king, before the king himself, the said court then and there still being at Westminster, in the said county of Middlesex, the said John, by Charles Bower, his attorney, came and defended the wrong and injury, when, &c. Defendant makes consequence as bailiff distraining for rent under a demise.

and as bailiff of Joseph Jarvis Clarke, esquire, well acknowledged the taking of the said goods and chattels in the said dwelling-house, in which, &c. because he said, that the said Robert continually from and after the feast of the Annunciation of the Blessed Virgin Mary, in the year of Our Lord 1776, until and at the said time, when, &c. enjoyed the said messuage or dwelling-house, with the appurtenances, and during all that time held the same of the said Joseph J. Clarke, as his tenant thereof, by virtue of and under a demise thereof to him made by the said Joseph J. C. at the yearly rent of eight pounds, payable yearly and every year at the feast of the Annunciation of the Blessed Virgin Mary, and because eight pounds due and payable from the said Robert to the said Joseph J. C. for one whole year, ending on the feast day of the Annunciation of the Blessed Virgin Mary, in the year of Our Lord 1777, at that feast and in that year, and also at the time of the taking of the said goods and chattels, were due and in arrear and unpaid to the said Joseph J. C. the said John, as bailiff to the said Joseph J. C. well acknowledged the taking of the said goods and chattels in the said dwelling-house, in which, &c. and justly, &c. for and in the name of a distress for the said rent so due and in arrear and unpaid to him the said Joseph J. C. as aforesaid, and the said rent then remaining due and unpaid, and such proceedings were thereupon had in the said court of our said lord the king, before the king himself, at Westminster aforesaid, that the said Robert Hughes prayed a day to imparl to the said cognizance of the said John, and it was granted to him, &c. and thereupon a day was given as well to the said Robert as to the said John, until on the morrow of All Souls, that is to say, for the said Robert to imparl to the said cognizance, and then to plead in bar to the same, at which day before our lord the king, at Westminster, came the said John by his attorney aforesaid, and the said Robert Hughes came not, but made default; therefore it was considered that the said Robert Hughes and his pledges for prosecuting should be amerced, and the said John should depart the court without day, and that he should have a return of the said goods and chattels in the said declaration mentioned to be detained by him irrepleviable forever, as by the said record and proceedings thereof now remaining in the said court of our said lord the king, before the king himself, at Westminster aforesaid, more fully appears: And the said

Impar lance.

Judgment by default.

Writ of *retorno
habendo.*

Assignment by
sheriff.

said John in fact says, that afterwards, to wit, on the twenty-eighth day of November, in the nineteenth year of the reign of our lord the now king, he the said John sued out of the court of our said lord the king, before the king himself, at Westminster, a certain writ of our said lord the king directed to the sheriff of Middlesex, reciting the aforesaid judgment, whereby the said sheriff is commanded that he should without delay return the aforesaid goods and chattels to the said John, and that he should not deliver the same at the complaint of the said Robert, without the writ of our said lord the king should expressly mention the said judgment, and in what manner he should execute that writ, he should make appear to our said lord the king in eight days of St. Hilary, wheresoever our said lord the king should then be in England, and should have then there that writ, which said writ afterwards, to wit, on the said twenty-eighth day of November, in the year last aforesaid, at Westminster aforesaid, was delivered to John Burnell, esquire, and Henry Kitchen, esquire, then being such sheriff of the said county of Middlesex, to be executed in due form of law; and the said J. B. and H. K. then being sheriff of the said county of Middlesex at the return of the said writ, did return and certify to our said lord the king, that before the coming of that writ to the said sheriff, the said goods and chattels were claimed and removed by the within-named Robert Hughes to places to the said sheriff unknown; therefore he could not return the same to the said John, as by the said writ and return duly assiled of record in the court of our said lord the king, before the king himself, at Westminster aforesaid, more fully appears: And the said John hath never had any of the said goods and chattels returned to him, by reason thereof the said writing-obligatory became forfeited to the said Samuel Plumbe and N. T. the said late sheriff of the said county of Middlesex, and the same being so forfeited, the said late sheriff afterwards, to wit, on the first day of February, A. D. 1779, at the parish aforesaid, in the county aforesaid, at the request and costs of the said John aforesaid, the said writing-obligatory to the said John according to the form of the statute in such case lately made and provided by indorsing the same assignment upon the said writing-obligatory, and attesting the same under his hand and seal in the presence of two credible witnesses, according to the form of the statute in such case lately made and provided, as by the same assignment indorsed upon the said writing-obligatory, and duly stamped before the commencement of this suit, according to the form of the statute in such case lately made and provided, more fully appears, of which said assignment the said Robert Hislop afterwards, to wit, on the same day and year last aforesaid, at the parish aforesaid, in the county aforesaid, had notice; by reason whereof and by force of the statute in such case lately made and provided, an action hath accrued to the said John as assignee of the said S. P. and N. T. late sheriff of the said county of Middlesex, to demand and have of the said Robert Hislop the said ten pounds above demanded; yet the said Robert Hislop, although

after

often requested, hath not yet paid the said ten pounds or any part thereof to the said S. P. and N. T. late sheriff of the said county of Middlesex, before the assignment of the said writing-obligatory to the said John, or since the assignment of the said writing-obligatory, but to pay the same to them or any of them, he the said Robert Hislop hath hitherto altogether refused, and still doth refuse to pay the same to the said John; whereupon the said John saith he is injured, and hath sustained damage to the value of ten pounds, and therefore he brings his suit, &c.

AKERMAN } **AND** the said I. as to the said plea of the said T. Replication to a
against } by him above pleaded, saith, that by reason of any plea of insolvent
DEIGHTON. } thing in that plea above alledged, the person of the said debtors act to an
T. ought not to be discharged from the execution of the judgment action of debt
to be obtained by the said I. against him the said T. in this action, on a replevin
because he saith, that though true it is that the said writing-obli- bond(a).
gatory in the said declaration mentioned was made and delivered
by the said T. before the twenty-second day of January, A. D.
1776, as the said Thomas hath above in his said plea in that behalf
alledged; nevertheless for replication in this behalf the said J.
saith, that the said writing-obligatory in the said declaration men-
tioned was made and delivered by the said Thomas to him the said
I. to wit, at L. aforesaid, &c. with and under a certain condition
thereto subscribed, to wit, that if the said John Brown did appear
at the next court to be held at Guildford, &c. and then and there
prosecute, &c. and did also make return, &c. and did also save
and keep harmless and indemnified, &c. then the said obligation to
be void, &c. as by the said writing-obligatory in court here, re-
lation being thereunto had, may more fully and at large appear:
And the said J. further saith, that after the making of the said
writing-obligatory as aforesaid, and after the said twenty-second
day of January, A. D. 1776, in the said plea of the said Thomas
mentioned, to wit, on, &c. and not before, to wit, at London
aforesaid, &c. the said debt of him the said Isaac, that is to say,
the said sum of fifty pounds in the said writing-obligatory men-
tioned and above demanded, under and by virtue of the said writ-
ing-obligatory and the condition thereof, became due and ow-
ing from the said Thomas to the said Isaac, to wit, at L. aforesaid,
&c. without this, that the said debt of him the said Isaac was
due from the said T. to him the said Isaac before the twenty-second
day of January, A. D. 1776, and this, &c. wherefore inasmuch as the
said T. hath above acknowledged the debt aforesaid, and that the

This traverse does not deny the debt, but only that it was due before the 22d of January 1776.

(a) This was an action of debt on a replevin bond brought by the sheriff of Middlesex, to whom the bond was given. The defendant pleaded in discharge of his debt the insolvent debtors act, 16. Geo. III. which discharges the prisoner from all debts, &c. due and owing on or

before the 22d of January 1776. The plaintiff averred that the bond in question was given before that time; whereas he had averred that the debt on which the action was brought, was due before or on the day mentioned in the act.

said Joseph ought to recover against him the said T. his debt aforesaid, and also his damages on occasion of the detention thereof, he the said Isaac prays judgment for his said debt, and his said damages on occasion of the detention thereof, against the person of the said Thomas in this behalf, &c.

C. RENNINGTON.

Declaration on a replevin bond, when the cause was removed from the county court into the court of C. B.

[STATE the replevin, the bond and condition, and the levying of the plaint in the inferior court, then proceed as follows]: Which said plaint afterwards, to wit, in fifteen days from the day of Easter, in the said tenth year aforesaid, at the instance of the said plaintiff, was duly removed out of the said sheriff's county court of Middlesex into the court of our said lord the now king of the bench here, to wit, at Westminster aforesaid, by virtue of his majesty's writ of *recordari facias loquelam*, before then duly sued and prosecuted out of the court of our said lord the king of his chancery at Westminster, returnable before his majesty's then justices of the bench, in fifteen days from the day of Easter aforesaid, and thereupon the said D. afterwards, to wit, in Michaelmas term, in the fourteenth year of the reign of our sovereign lord George the Third, now king of Great Britain, delivered in the court of the said bench aforesaid, against the said plaintiff in the said plea of taking and unjustly detaining his said goods and chattels, thereby complaining by James Fletcher, his attorney, that [here set out the whole of the said declaration], and the said plaintiff, by R. Judman, his then attorney, came into the court of the bench aforesaid the said Michaelmas term, in the fourteenth year aforesaid, and defended the wrong and injury, when, &c. and well avowed [here set forth the avowry, omitting the verification]; and such proceedings were thereupon had in the said court of the bench aforesaid, in the plea aforesaid, that afterwards, to wit, in Trinity term, in the fourteenth year of the reign of our said lord the now king, it was considered in and by the said court that the said D. should take nothing by his writ in that suit, but that he and his pledges to prosecute should be in mercy, and that the said plaintiff should go thereof without day, and that he should have a return of the said goods and chattels to hold to him irrepleviable for ever, as by the record and proceedings thereof, still remaining in the court of our said lord the now king of the bench, at Westminster, more fully appears, of all which said several premises the said defendant afterwards, to wit, on, &c. at, &c. had notice: And the said plaintiff in fact further saith, that the said D. did not make a return of the said goods and chattels or any part thereof, according to the form and effect of the said condition of the said writing-obligatory, but to return the same then and there wholly refused, and hath hitherto altogether refused so to do, whereby the said writing-obligatory became forfeited, &c. as [in any other declaration on a sheriff's bond.]

AND

AND the said William in his own person comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, and it is read to him, &c. he likewise craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: "The condition of this obligation is such, that if the above-bounden James Abbiss doth appear at the county court for the county of Middlesex, to be held at the house known by the name of the Three Tuns, in Brook-street, near Holborn, in the county aforesaid, and do prosecute his action with effect against William Thomas for taking and unjustly detaining of the several goods and chattels, to wit, the several goods and chattels in the schedule or inventory hereunto annexed, particularly mentioned and expressed, and do make return thereof, if return thereof shall be adjudged by law, and also do save and keep harmless and indemnified the said sheriff of M. his deputies and bailiffs, touching and concerning the replevying and delivery of the said goods and chattels, then this obligation to be void and of no effect, or otherwise to be and remain in full force; which being read and heard, the said William says, that the said Samuel and John *actio* re; because he says, that the said James Abbiss in the said condition named did appear at the next county court for the county of Middlesex held after the making of the said condition at the said house in the condition for that purpose named, and did prosecute his action with effect against the said William Thomas for taking and unjustly detaining the several goods and chattels in the said schedule or inventory to the said writing-obligatory annexed, particularly mentioned and expressed, and that no return of the said goods and chattels, or any part thereof, has yet been adjudged by law, and that neither the said sheriff of Middlesex, his deputies or bailiffs, or any or either of them, have or hath been at any time, from the time of the making of the said writing-obligatory, hitherto damnified in any manner whatsoever, touching or concerning the replevying of the said goods or chattels, or any part thereof; and this he is ready to verify; wherefore he prays judgment if the plaintiffs ought to have or maintain their aforesaid action against him, &c.

Plea to a sheriff's bond, that plaintiff in replevin appeared and no return adjudged.

And the said Samuel and John say, that notwithstanding any thing by the said defendant above alledged, they ought not to be barred from having and maintaining their said action against him; because they say, that heretofore, that is to say, at the county court of the said Samuel and John, sheriffs of the county of Middlesex aforesaid, held for the county aforesaid, at the house known by the sign of the Three Tuns, in Brook-street, near Holborn, in the said county, the sixth day of February, in the twenty-eighth year of the reign of the present king, before J. G. H. L. R. A. and L. O. then free suitors of the same court, the said James Abbiss complained of the aforesaid William Thomas of a plea of taking and unjustly detaining his goods and chattels against sureties and pledges, &c. being the same plea and action mentioned in the condition of the said writing-obligatory, and

Replication, that Abbiss appeared in county court, that William Thomas removed cause into K. B. and that court gave judgment for defendant, and adjudged a return of the goods, &c.

DEBT ON REPLEVIN BOND.—(REPLICATION)

States removal
of plaint by re-
fale;

makes cogni-
zance as bailiff
of the earl of N.
who was seised,
&c. in a mes-
suage, and goods
were taking up
room and doing
damage.

being the same goods and chattels metioned in the schedule or inventory to the said writing-obligatory annexed, and found pledges as well to prosecute his said plaint, as to return the said goods and chattels, if a return thereof should be adjudged by law, to wit, William Collins, of, &c. and the said William Sherratt, which said plaint, at the petition of the said William Thomas, was had before our lord the king at Westminster, on the octave of the Purification of the Blessed Mary, in the twenty-eighth year of the reign of our lord the present king, by writ of our said lord the king of *recordari facias loquelam*, before that time issued out of the court of our lord the king of his chancery at Westminster, and returnable and returned before our said lord the king at Westminster aforesaid, on the said octave of the Purification of the Blessed Virgin Mary, in the year last-mentioned; and thereupon the said James afterwards, to wit, in Easter term, in the twenty-eighth year of, &c. in the court of our said lord the king, before the king himself (the same court then and still being at Westminster aforesaid), did implead the said William Thomas in the said plea, for that the said William Thomas, on, &c. at, &c. in a certain part of a certain messuage or tenement called Cambray House, there then in the possession of the said James, took the goods and chattels following of him the said James, to wit, one bed, &c. (being the same goods and chattels mentioned in the said schedule or inventory to the said writing-obligatory annexed), and them unjustly detained against sureties and pledges until, &c. whereupon the said James said he was injured, and had damage to the value of one hundred pounds, and thereupon he brought that suit, &c.; and thereupon the said William Thomas, in that Easter term in the said court of our said lord the king, before the king himself (the same court then and still being at Westminster aforesaid), as bailiff of the said right honourable William earl of Northampton, well acknowledged to take of the said goods and chattels in the said place in which, &c. and justly, &c. because he said that the said messuage called Cambray House, in which, &c. then, &c. at the said time when, &c. was the house and freehold of the said earl, and because the said goods and chattels at the said time when, &c. were in the said part of the said messuage called Cambray House, in the said declaration mentioned, in which, &c. taking up room there to the damage of the said earl; and the said William Thomas, as bailiff of the said earl, well acknowledged the taking of the said goods and chattels in the aforesaid part of the said messuage, in which, &c. there doing damage: And the said Samuel and John further say, that such proceedings were had in the said court of our said lord the king, before the king himself, at Westminster aforesaid, in the said plea, that afterwards, to wit, in that same Easter term, in the twenty-eighth year aforesaid, in the said court of our said lord the king, before the king himself (the said court then and still being held at Westminster aforesaid), it was considered by the same court, that the said James and his pledges of prosecuting should be in mercy, and that the said William Thomas should go thereof without day,
and

and that he the said William Thomas should have a return of the goods and chattels aforesaid, as by the record and proceedings thereof remaining in the said court of our said lord the king, before the king himself, more fully appears; and this they are ready to verify; wherefore they pray judgment and their debt aforesaid, together with their damages by reason of the detaining thereof, to be adjudged to them, &c.

WILLIAM Seward, assignee of sir James Sanderson, knight, Declaration on and Brook Watson, esquire, late sheriff of the county of Middlesex, according to the form of the statute in such case made and provided, complains of Dorothy Newman, widow, being, &c. an assignment of a replevin bond for want of a rejoinder.

in a plea that she the said Dorothy render unto the said William, as such assignee as aforesaid, fifty pounds, which she owes to and unjustly detains from him, &c.; for that whereas before the making of the writing-obligatory hereafter mentioned, to wit, on, &c. in a certain part of a certain messuage or dwelling-house situate in the parish of St. Luke, Old-street, in the said county of Middlesex, seized, took, and distrained, as a distress for certain arrears of rent due and payable from the said Dorothy to the said William for one undivided moiety of the said messuage or dwelling-house, certain goods and chattels of the said Dorothy, to wit, one large Bath stove, &c.; and thereupon the said Dorothy afterwards, and whilst the said goods and chattels remained and continued under the said distress, to wit, on, &c. made complaint to the said sir J. S. and B. W. then and there sheriff of the said county of Middlesex, out of the county court of the said sheriff, of the said taking of the said goods and chattels, and then and there prayed the said sheriff that the said goods might be forthwith replevied and delivered by him the said sheriff to the said Dorothy, and thereupon the said sir J. S. and B. W. then being sheriff of the said county of Middlesex as aforesaid, according to the form of the statute in such case made and provided, did take from the said Dorothy, and one Thomas Johnson and one Henry Woods, two responsible sureties or bonds in double value of the said goods and chattels so distrained as aforesaid, and on that occasion the said Dorothy, T. J. and H. W. on, &c. by the said writing-obligatory, sealed with the seals of them the said Dorothy, T. J. and H. W. and now shewn to the court here, the date whereof is the same day and year last aforesaid, became held and firmly bound to the said sir J. S. and B. W. then and still being sheriff of the said county of Middlesex, in fifty pounds of good and lawful money of Great Britain, to be paid to the said sheriff or his certain attorney, executors, administrators, or assigns, for which payment to be well and faithfully made they bound themselves, and each of them by himself, for the whole and entire sum, and the heirs, executors, and administrators of them and every of them firmly by these presents, subject nevertheless to a condition to the said writing-obligatory subscribed to the effect following, that if the aforesaid Dorothy

Replevin.
The bond.

DECLARATION IN REPLEVIN BOND,

Plaint levied and
removed by re-
fale into B. R.

Avowry.

Plea in bar.

Dorothy did appear at the then next court for the county of Middlesex, to be holden at the house known by the name of the Sheriff's Office, in Took's-court, Cursitor-street, in the said county, and should then and there prosecute her suit with effect against the said William for taking and unjustly detaining the said goods and chattels hercinbefore in the said count of the said writing-obligatory mentioned and did also make return thereof, if return thereof should be adjudged by law, and should well and truly keep harmless and indemnified the said sheriff of the said county of Middlesex, his under-sheriff, and deputies, and bailiffs, touching and concerning the replevying and delivery of the said goods and chattels, then the said obligation to be void and of no effect, otherwise to be and remain in full force, as by the said writing-obligatory and the condition thereof, relation being thereto had, will, amongst other things, more fully appear; and thereupon the said sir J. S. and B. W. then and there being sheriff of the said county of Middlesex, afterwards, to wit, on, &c. at the said prayer of the said Dorothy, caused to be replevied and made deliverance of the said goods and chattels to the said Dorothy, according to the duty of their said then office of sheriff of the said county of Middlesex, and afterwards, to wit, at the county court of the said county of Middlesex, holden at the said house, known by the name of the Sheriff's Office, in Took's-court, Cursitor-street aforesaid, in the said county of Middlesex, next after the making of the said writing-obligatory, to wit, at the court of and for the said county holden on, &c. at the house aforesaid, before certain then suitors of the said court, the said Dorothy levied her certain plaint in the said court against the said William, in a plea of taking and unjustly detaining her said goods and chattels, which said plaint, with all things touching the same, afterwards, to wit, in Trinity term in the twenty-sixth year aforesaid, was duly removed and brought into the court of our said lord the king, before the king himself here to be determined and proceeded on by virtue of his majesty's writ of, &c. before then duly issued out of his majesty's high court of chancery at Westminster, and returnable in the said court of our said lord the king here at a certain day now past; and thereupon the said Dorothy afterwards, to wit, in the said Trinity term, in the twenty-sixth year aforesaid, in the court of our said lord the king, before the king himself here, declared against the said William in the plea of the said plaint, and of and for the aforesaid taking and for unjustly detaining her aforesaid goods and chattels against sureties and pledges, &c. until, &c.: And afterwards, to wit, in the said Trinity term, in the twenty-sixth year aforesaid, in the said court of our said lord the king here, the said William, by David Crawley his attorney, came and defended the wrong and injury, when, &c. and well avowed [here copy the plaintiff's avowry]; and afterwards in the same Trinity term, in the said court of our said lord the king here, the said Dorothy said, that by reason of, &c. &c. [here copy the defendant's plea in bar]; and afterwards, to wit, in the same Trinity term, in the twenty-sixth year aforesaid, the said William,

as

as to the said plea, &c. &c. [here copy the plaintiff's replication] :
 And the said William in fact further saith, that notwithstanding
 such proceedings as aforesaid, yet the said Dorothy did not pro-
 secute her said action in the said condition of the said writing-
 obligatory mentioned and alluded to with effect, according to the
 tenor and effect, intent and meaning of the said condition, but
 omitted and neglected so to do, and therein failed and made default,
 for that after such proceedings were so had in the said court of our
 said lord the king, before the king himself here as aforesaid, to wit,
 in Easter term, in the twenty-seventh year of the reign of our said
 lord the king, a day, that is to say, on Wednesday, &c. where-
 soever our said lord the king should then be in England, was given
 by the said court of our said lord the king here to the parties afore-
 said, for the said Dorothy to rejoin to the said replication so made
 by the said William to the said pleas in bar of the said Dorothy as
 aforesaid, at which day, before our lord the king at Westminster,
 came the said William, by his attorney aforesaid, but the said
 Dorothy came not, nor did she rejoin to the said replication, or
 any further prosecute her suit against the said William, but there-
 in wholly failed and made default; and thereupon afterwards, to
 wit, in the said Easter term, in the twenty-seventh year aforesaid,
 it was considered by the said court that the said Dorothy should
 take nothing by her writ aforesaid, but for her false claim therein
 should be in mercy, &c. and that the said William should go
 thereof without day, &c.; and that he should have a return of the
 said goods and chattels to be delivered to him for ever irrepleviable,
 as by the record and proceedings still remaining in full force,
 strength, and effect, in nowise reversed, annulled, or satisfied, more
 fully and at large appears; whereby and by reason of which said
 several premises, the said bond or writing-obligatory hereinbefore
 mentioned became forfeited to the said sir J. S. and B. W. the said
 late sheriff of the said county of Middlesex, and being so forfeited,
 and the money therein specified wholly unpaid, the said sir J. S.
 and B. W. the said late sheriff of the said county of Middlesex,
 afterwards, to wit, on, &c. at the request and costs of the said
 William, the avowant in the aforesaid replevin suit assigned the
 said bond or writing-obligatory to the said William, according to
 the form of the statute in such case made and provided, by then
 and there indorsing that assignment on the said bond or writing-
 obligatory, and attesting the same under their seal as such late
 sheriff as aforesaid, in the presence of two credible witnesses, ac-
 cording to the form of the statute in such case made and provided,
 as by the said assignment indorsed on the said bond or writing-
 obligatory, and duly stamped before the beginning of this present
 action thereupon, according to the form of the said statute, bearing
 date the day and year last aforesaid, and now also shewn to the
 court here, more fully and at large appear; by means of which said
 premises, and by force of the statute in such case made and pro-
 vided, an action hath accrued to the said William as such assignee
 as aforesaid to demand and have of and from the said Dorothy the
 said

States default in
not rejoining.

Judgment *de re-
turno habendo.*

Assignment of
replevin bond.

said fifty pounds in the said bond or writing-obligatory mentioned and above demanded: Yet the said Dorothy, although often requested, hath not as yet paid the said fifty pounds or any part thereof, but she so to do hath hitherto wholly refused and still refuses, and the said sum of fifty pounds is still wholly due and unpaid, to the damage of, &c.

V. LAWES,

Michaelmas Term, 13. Geo. III.

Declaration on a replevin bond, after removal by *refale* to B. R. and judgment for plaintiff on two demurrers to replications to pleas in bar, and verdict on two issues on two other replications. All the proceedings stated at length.

Plaintiff distrained on William Lucas for rent,

who made complaint before Sheriff,

and prayed that they might be replevied. Sheriff took and received bond of defendant;

MIDDLESEX, to wit. William Lucas, late of Tottenham Court-road, in the parish of St. Giles's in the Fields, in the county of Middlesex, weaver, Charles Lucas, late of Grocers-alley, London, gentleman, and Francis Leicester, late of Milk-street, London, gentleman, were summoned to answer unto Elizabeth Hardy, assignee of John Wilkes, esquire, and Frederick Bull, esquire, late sheriff of the county of Middlesex, according to the form of the statute in such case made and provided, in a plea that they rendered unto the said Elizabeth sixty-four pounds and seven shillings of good and lawful money of Great Britain, which they owe to and unjustly detain from her, and thereupon the said Elizabeth, by James Mainstone her attorney, complains, that whereas after the twenty-fourth day of June, in the year of Our Lord 1738, to wit, on the twenty-fourth day of February, in the year of Our Lord 1772, at the parish of St. Giles's in the Fields, in the county of Middlesex, in a certain dwelling-house there, the said Elizabeth in her own right distrained the goods and chattels of the said William Lucas, for a certain sum of money then due to the said Elizabeth for rent of the said dwelling-house, with the appurtenances, and the said goods and chattels being so distrained the said William Lucas afterwards, and within the space of five days then next following, that is to say, on the said twenty-fourth day of February, in the said year 1772, at the parish aforesaid, made her complaint unto the said John Wilkes and Frederick Bull, the sheriff of the county of Middlesex aforesaid, out of the court of the said then sheriff of the taking and unjustly detaining of the said goods and chattels of the said William by the said Elizabeth, and then and there prayed the said then sheriff that the said goods and chattels might be forthwith replevied by the said then sheriff, and delivered to him the said William Lucas; and thereupon the said John Wilkes and Frederick Bull, being then sheriff of the county of Middlesex aforesaid, according to the form of the statute in such case made and provided, did take from the said William Lucas, Charles Lucas, and Francis Leicester, two responsible sureties, a bond in double the value of the said goods and chattels so distrained as aforesaid, to wit, the said W. Lucas, C. Lucas, and F. Leicester, on the said twenty-fourth day of February, in the year of Our Lord 1772 aforesaid, at the parish aforesaid in the county aforesaid, by their certain writing-obligatory, sealed with the seals of the said William Lucas, Charles Lucas, and

Francis

Francis Leicester, and to the court of our said lord the king now
 be shewn, the date whereof is the day and year last aforesaid,
 acknowledge themselves to be held and firmly bound unto the
 said John Wilkes and Frederick Bull, then sheriff of the county
 of Middlesex aforesaid, by the name of John Wilkes, esquire, and
 Frederick Bull, esquire, sheriff of the county of Middlesex, in the
 said sum of sixty-four pounds and seven shillings of good and law-
 ful money of Great Britain, to be paid to the said then sheriff or
 his assignee, when they should be thereunto afterwards requested,
 to which payment well and truly to be made they bound them-
 selves and every of them by himself for the whole and entire time,
 and the heirs, executors, and administrators, of them and every of
 them, with a condition thereunder written, that if the said William
 Lucas did appear at the then next county court for the county of
 Middlesex, to be held at the house known by the sign of the Three
 Tuns, in Brook-street, near Holborn, in the county aforesaid,
 and did prosecute his action with effect against the said Elizabeth
 Hardy for taking and unjustly detaining of his goods and chattels,
 to wit, the several goods and chattels in the schedule or inventory
 thereof thereunto annexed, particularly mentioned and expressed,
 and did make return thereof, if return thereof should be adjudged
 by law, and also did save and keep harmless and indemnified the said
 sheriff of Middlesex, his deputies and bailiffs, touching and con-
 cerning the replevying and delivery of the said goods and chattels,
 then that obligation to be void and of no effect, or else to be and
 remain in full force, as by the said writing-obligatory and the con-
 dition thereof, relation being thereunto had, more fully and at
 large appears; and thereupon the said then sheriff afterwards, to
 wit, on the said twenty-fourth day of February, in the year of Our
 Lord 1772 aforesaid, at the parish aforesaid, in the county afore-
 said, at the prayer of the said William Lucas, replevied and made
 deliverance of the said goods and chattels to the said William
 Lucas, according to the duty of his said office: And the said
 Elizabeth, assignee as aforesaid, further saith, that afterwards, to
 wit, at the then next county court of the said county of Middle-
 sex, to wit, at the county court of the said John Wilkes and Fre-
 derick Bull, the sheriff of the said county of Middlesex, holden
 at the said house known by the name of the Three Tuns,
 in Brook-street, near Holborn, in and for the county of Mid-
 dlesex aforesaid, and within the jurisdiction of the said court,
 on the twelfth day of March, in the twelfth year of the reign
 of our lord the now king, and in the year of Our Lord 1772
 aforesaid, before David Owen, Robert Owen, and Thomas
 Owen, and Thomas Oxford, then free suitors of the said court,
 the said William Lucas did appear in his own person, and then
 and there in the said court without the writ of the said lord the
 king, according to the custom of the said court levied his plaint
 against the said Elizabeth for the taking and unjustly detaining of
 the said goods and chattels, and then and there in the said court
 stand pledges as well for prosecuting his said plaint as for return-

and then re-
 plevied the
 goods.

Lucas appeared
 and levied his
 plaint in court.

Plaint removed into B. R. by *refale*.

Lucas declared against plaintiff thereon.

Declaration in replevin for taking household goods.

ing the said goods and chattels, if return thereof should be adjudged, to wit, the said Charles Lucas and Francis Leicester, *the record* of which said plaint was duly had and removed before our said lord the king, in the court of our said lord the king, before the king himself (the said court then and still being held at Westminster, in the said county of Middlesex), from Easter day in fifteen days in the term of Easter, in the said twelfth year of the said lord the now king, by virtue of the writ of our said lord the king of *recordari facias loquelam*, before that time issued out of the chancery of the said lord the king at Westminster, directed to the then sheriff of the said county of Middlesex, and returned before our said lord the king, in the said court of our lord the king, before the king himself (the said court then and still being held at Westminster, in the said county of Middlesex), from Easter day in fifteen days in Easter term aforesaid; and thereupon the said William Lucas, in the said term of Easter, in the said twelfth year of our said lord the now king, before the king himself (the said court then and still being held at Westminster aforesaid, in the said county of Middlesex), by the said Francis Leicester, his then attorney, declared against the said Elizabeth in the said plea of taking and unjustly detaining his goods and chattels: *And* by the said declaration he the said William Lucas, by the said Francis Leicester his then attorney, complained that the said Elizabeth, on the twentieth day of February, in the twelfth year of the reign of our said lord the now king, at the parish of St. Giles's in the Fields, in the county of Middlesex aforesaid, in a certain place there called Tottenham Court Road, in the dwelling house of the said William, there took the goods and chattels following, to wit, one mahogany bureau, one mahogany bedstead, one clock, one clock case, one bracket, one claw table, one pier glass, one marble table, one other bracket, one stove, one brass fender, three chairs, seventeen paintings and pictures, one mahogany tea-chest, two window blinds, ten pieces of glass, two window curtains, one carved mantle-piece, one pair of earthen-ware, three bird cages, six bird-cage glasses, one feather-bed, one bolster, two pillows, two blankets, one quilt, one walking cane, one whip, fifty books, one other mahogany bureau, one four-post bedstead, one other feather-bed, three other blankets, one pair of sheets, one other bolster, two other pillows, one other quilt, one dressing-glass with drawers, one other chair, two stools, one other window-blind, one half tester bedstead, one other feather-bed, one other bolster, two other pillows, two other blankets, one other pair of sheets, one coverlid, one chest of drawers, two other chairs, one other stove, one other brass fender, one pair of tongs, one poker, one shovel, two German pipes, two looking-glasses, two trunks, one other table, one brass candlestick, one other walking-cane, one figure, two pair of boots, one other picture, one other half tester bedstead, one other feather-bed, one other bolster, two other blankets, one other coverlid, two other tables, three other chairs, one corner cupboard, four other prints, one half tester bedstead

bedstead with the furniture thereto belonging, one other feather-bed, one other bolster, two other pillows, one other pair of sheets, three other blankets, one other coverlid, one other corner cupboard, one other chest of drawers, one other stove, one other poker, one other pair of tongs, one other shovel, four other chairs, one other tea-chest, one other tea-kettle, two saucepans, one other table, one other bedstead, one other feather-bed, two other sheets, two other coverlids, three other chairs, one other table, one iron range, one other pair of tongs, one other poker, one other shovel, one other fender, two other tables, one screen, one warming-pan, three other candlesticks, one other saucepan, one other tea-kettle, one pot, one pot-cover, six other chairs, two tea-boards, one other looking-glass, and one pair of bellows of the said William, and them unjustly detained against gages and pledges until, &c. wherefore the said William said that he was injured, and had sustained damage to the value of forty pounds, and therefore he brought that suit, &c. ; *which* said goods and chattels specified in the said declaration were the same goods and chattels in the said schedule or inventory to the said writing-obligatory annexed particularly mentioned and expressed ; *and afterwards*, to wit, on the said term of Easter, in the said twelfth year of the reign of our said lord the now king, in the said court of our said lord the now king, before the king himself, the said court then and still being holden at Westminster, in the said county of Middlesex, the said Elizabeth, by James Mainstone her attorney came and defended the wrong and injury, when, &c. and well avowed the taking of the said goods and chattels in the said dwelling house, in which, &c. and justly, &c. ; because she said that the said William, for the space of three quarters of a year next before and ending on the feast-day of the birth of Our Lord Christ, which was in the year of Our Lord 1771, and from thence until and at the said time when, &c. *enjoyed the said dwelling-house in which, &c. with the appurtenances, under a demise thereof* theretofore made to him, at the yearly rent of twenty-six pounds four shillings payable quarterly at the feasts of the nativity of St. John the Baptist, St. Michael the Archangel, the birth of Our Lord Christ, and the Annunciation of the Blessed Virgin Mary, by even and equal portions, and during all that time held the same of the said Elizabeth by virtue of the said demise, as her tenant thereof at the rent aforesaid ; and because nineteen pounds thirteen shillings of the rent aforesaid due and payable by the said William to the said Elizabeth, for three quarters of a year of the said term, ending on the said feast-day of the birth of Our Lord Christ, in the said year of Our Lord 1771, on that day, and from thence until and at the said time when, &c. were in arrear and unpaid to the said Elizabeth, she the said Elizabeth well avowed the taking of the said goods and chattels in the said dwelling house in which, &c. and justly, &c. for and in the name of a distress for the said rent so in arrear and unpaid, which said rent then still remained due and owing to the said Elizabeth ; and that she was ready

Which goods mentioned in declaration were same as mentioned in bond. Defendant avowed for rent arrear under a demise.

1st avowry set out for three quarters rent payable quarterly.

This is traversed in the first plea in bar.

ad avowry, for
half a year's rent
payable half
yearly.

This is traversed
in the third plea
in bar.

1st Plea in bar,
de injuria sua pro-
pria.

Traversing the
demise in first
avowry.

ready to verify; wherefore she prays judgment and a return of the said goods and chattels, together with her damages, &c. to be adjudged to her, according to the form of the statute in such case made and provided, &c.: *And for further avowry in that behalf, she the said Elizabeth, by leave of the court here for that purpose first had and obtained, according to the form of the statute in such case made and provided, well avowed the taking of the said goods and chattels in the said dwelling house in which, &c. and justly, &c.; because she said that the said William, for the space of half a year and more next before and ending on the feast-day of St. Michael the Archangel, which was in the year of Our Lord 1771, and from thence until and at the said time when, &c. enjoyed the said dwellinghouse in which, &c. with the appurtenances, under a demise thereof theretofore made to him, at the yearly rent of twenty-six pounds four shillings payable half yearly at the feast of St. Michael the Archangel, and the Annunciation of the Blessed Virgin Mary, by equal and even portions, and during all that time held the same of the said Elizabeth by virtue of the said demise as her tenant thereof, at the rent aforesaid; and because thirteen pounds two shillings of the rent aforesaid, due and payable by the said William to the said Elizabeth for half a year of the said term ending on the said feast-day of St. Michael the Archangel, in the said year of Our Lord 1771, on that day, and from thence until and at the said time when, &c. were in arrear and unpaid to the said Elizabeth, she the said Elizabeth well avowed the taking of the said goods and chattels in the said dwelling house in which, and justly, &c. for and in the name of a distress for the said rent so in arrear and unpaid, which said rent then still remained, and was due and owing to the said Elizabeth; and that she was ready to verify; wherefore she prayed judgment and a return of the said goods and chattels, together with her damages, &c. to be adjudged to her, according to the form of the statute in such case made and provided, &c.: And the said William said that the said Elizabeth, for the reasons by the said Elizabeth in her said first avowry above alledged, ought not to avow the taking of the said goods and chattels in the said dwelling house in which, &c. as just; because he said that the said Elizabeth, at the said time when, &c. of her own wrong took the said goods and chattels in the said dwelling house in which, &c. and unjustly detained the same against gages and pledges, until, &c. in manner and form as the said William had above thereof complained against her; without this, that the said William enjoyed the said dwelling house in which, &c. under a demise thereof made to him by the said Elizabeth, in manner and form as the said Elizabeth had above in her said first avowry alledged; and that he was ready to verify; wherefore inasmuch the said Elizabeth had above avowed the said taking of the said goods and chattels in the said dwelling house in which, &c. above done, he the said William prayed judgment and his damage, on occasion of the taking and unjustly detaining the said goods and chattels, to be adjudged to him,*

him, &c.: *And for* further plea in bar to the said first avowry of the said Elizabeth, he the said William, by leave of the court here for that purpose first had and obtained, according to the form of the statute in such case made and provided, said, that the said Elizabeth, for the reasons by the said Elizabeth in her said first avowry above alledged, ought not to avow the taking of the said goods and chattels in the said dwelling house in which, &c. as just; because he said, that at the time when, &c. nothing of the aforesaid rent mentioned in the said first avowry of the said Elizabeth was in arrear or unpaid from the said William to the said Elizabeth, as the said Elizabeth had above in her said first avowry alledged; and that he prayed might be enquired of by the country, and the said Elizabeth did the like: *And for* further plea in bar in that behalf as to the last avowry of the said Elizabeth, he the said William, by leave of the court here for that purpose first had and obtained, according to the form of the statute in such case made and provided, said that the said Elizabeth, for the reasons by the said Elizabeth in her said last avowry above alledged, ought not to avow the taking of the said goods and chattels in the said dwelling house in which, &c. as just; because he saith, that the said Elizabeth at the same time when, &c. of her own wrong, took the said goods and chattels in the said dwelling house in which, &c. and justly detained them against gages and pledges until, &c. in manner and form as the said William had above thereof complained against her; *without this that he the said William held the said dwelling house in which, &c. of the said Elizabeth, by virtue of the said demise in the said last avowry of the said Elizabeth mentioned as h. r. tenant thereof*, in manner and form as the said Elizabeth had above in her said last avowry alledged; and that he was ready to verify; wherefore inasmuch as the said Elizabeth had above avowed the said taking of the said goods and chattels in the said dwelling house in which, &c. above done, he the said William prayed judgment and his damages, on occasion of the taking and unjustly detaining the said goods and chattels, to be adjudged to him, &c.: *And for* further plea in bar to the said last avowry of the said Elizabeth, he the said William, by leave of the court for that purpose first had and obtained, according to the form of the statute in such case made and provided, said that the said Elizabeth, for the reasons by the said Elizabeth in her said last avowry above alledged, ought not to avow the taking of the said goods and chattels in the dwelling house in which, &c. as just; because he said, that at the said time when, &c. nothing of the said rent mentioned in the said last avowry of the said Elizabeth was in arrear or unpaid from the said William to the said Elizabeth, as the said Elizabeth had above in her said last avowry alledged; and that he prayed might be enquired of by the country, and the said Elizabeth did the like, &c.: *And the said Elizabeth, as to the said plea of the said William by him first pleaded in bar as to the said avowry of the said Elizabeth by him first above made as before, said that the said William enjoyed the said dwelling house in which, &c. under a demise thereof made to him,*

2d Plea in bar to first avowry, nothing in arrear, and conclusion to the country.

3d Plea in bar to the second avowry.

de injuria sua propria.

Traverse of demise.

4th Plea in bar to the last avowry, no rent in arrear, and conclusion to the country.

Replication to first plea to first avowry, taking issue on the traverse.

2d Replication
to first plea, to
second avowry
same.

Demurrer to
first replication.

Causes
1st, not taking
issue on the
words of the
traverse.

2d, insufficient
in other respects.

2d demurrer to
second replica-
tion.

him, in manner and form as the said Elizabeth had above in her said first avowry alledged; and of that she put herself upon the country, &c.: And the said Elizabeth, as to the plea of the said William by him first above pleaded in bar to the said avowry of the said Elizabeth by her lastly above made as before said, that the said William held the said dwelling house in which, &c. of the said Elizabeth, by virtue of the said demise in the said last avowry of the said Elizabeth mentioned, as her tenant thereof, in manner and form as the said Elizabeth had above in her said last avowry alledged; and of that she puts herself upon the country: And the said William said, that the said plea of the said Elizabeth by her above pleaded by way of reply to the plea of the said William by him first above pleaded in bar to the said avowry of the said Elizabeth by her first above made, and the matters therein contained were not sufficient in law for the said Elizabeth to have a return of the said goods and chattels adjudged to her, &c. to which said plea of the said Elizabeth so pleaded by way of reply, in manner and form as the same was above pleaded and set forth, he the said William was not under any necessity, nor in anywise bound by the law of the land to answer; and that he was ready to verify; wherefore for want of a sufficient replication in that behalf he the said William prayed judgment and his damages, on occasion of the taking and unjustly detaining the said goods and chattels, to be adjudged to him, &c.: And for causes of demurrer in law, according to the form of the statute in such case made and provided, he the said William set down and shewed to the court here the causes following, to wit, for that the said Elizabeth had not taken issue on the words of the traverse of the said William by him offered to the said Elizabeth in and by his said first plea in bar, but had wholly altered the same, and had attempted to put an immaterial point in issue wholly different in substance, matter, form, and words, and which entirely altered, changed, and destroyed the sense, meaning, and effect of the said traverse so offered by the said William to the said Elizabeth as aforesaid, and which was also in itself a matter not issuable; and also for that the said replication was in other respects uncertain, insufficient, and informal, &c.: And the said William, as to the said plea of the said Elizabeth by her above pleaded by way of reply, as to the said plea of the said William by him first above pleaded in bar, as to the said avowry of the said Elizabeth by her lastly above made, he the said William said, that the said plea so pleaded by way of reply and the matters therein contained were not sufficient in law for the said Elizabeth to have a return of the said goods and chattels to be adjudged to her, and to which said plea of the said Elizabeth so pleaded by way of reply, in manner and form as the same was above pleaded and set forth, he the said William was not under any necessity, nor in anywise bound by the law to answer; and that he was ready to verify; wherefore for want of a sufficient replication in that behalf he the said William prayed judgment and his damages, on occasion of the taking and unjustly detaining the said

said goods and chattels, to be adjudged to him, &c.; and for causes of demurrer in law, according to the form of the statute in such case made and provided, the said William set down and shewed to the court here the causes following, to wit, for that the said Elizabeth had concluded her said replication to the country, when by law she ought to have concluded the same with a verification, and thereby have given the said William an opportunity to confess and avoid traverse or deny the matters pleaded and set forth by the said Elizabeth in her said replication, and also for that the said replication was argumentative, uncertain, and informal, &c.: *And* the said Elizabeth said, that the said plea of the said Elizabeth by her above pleaded by way of reply as to the plea of the said William by him first above pleaded in bar to the said avowry of the said Elizabeth by her first above made, and the matters therein contained were sufficient in law for the said Elizabeth to have a return of the said goods and chattels adjudged to her, &c.; which said replication, and the matters therein contained, the said Elizabeth was ready to verify and prove as the court should award; and because the said William had not answered the said replication, nor till then denied the same, the said Elizabeth as before prayed judgment and a return of the said goods and chattels, together with her damages, &c. to be adjudged to her, &c.: *And* the said Elizabeth, as to the said plea of the said Elizabeth by her above pleaded by way of reply as to the said plea of the said William by him first above pleaded in bar, to the said avowry of the said Elizabeth by her lastly above made, said, that the said plea so pleaded by way of reply and the matters therein contained were sufficient in law for the said Elizabeth to have a return of the said goods and chattels to be adjudged to her, &c.; which said replication and the matters therein contained the said Elizabeth was ready to verify and prove as the court should award; and because the said William had not answered the said replication, nor till then denied the same, the said Elizabeth as before prayed judgment and a return of the said goods and chattels, together with her damages, &c. to be adjudged to her, &c.; *and such proceedings* were thereupon afterwards had in the said court of our lord the king, before the king himself (the said court then and still being held at Westminster, in the county of Middlesex) in the plea aforesaid, that afterwards, to wit, in Trinity term in the said fifth year of the reign of our lord the now king, by the consideration and judgment of the said court there, it was considered that the said William Lucas should take nothing by his writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said Elizabeth Hardy might depart the said court with-
 out day for ever discharged therefrom; *and* that the said Elizabeth Hardy should have a return of the said goods and chattels, as by the record and proceedings thereof still remaining in the court of our lord the king, before the king himself (the said court then and still being held at Westminster, in the county of

Causes, That it concludes to the country, and ought to have concluded with a verification.

Joinder to the first demurrer.

2d joinder in demurrer to second demurrer.

Taliter processum fuit.

Judgment for avowant.

Mercy, &c.

Retorno habendo.

As by record, &c.

Of all which de- scendants had notice, &c. Middlesex aforesaid), more fully appears; of all which said several premises the said William, Charles Lucas, and Francis afterwards, to wit, on the twenty-sixth day of June, in the year 1772, at the parish of St. Giles's in the Fields aforesaid, had notice; which said judgment still remains in the said court of our lord the king, before the king himself, at Westminster aforesaid, in full force, strength, and effect, in nowise reversed or made void: And the said Elizabeth in fact saith, that the said William Lucas hath not yet made a return of the said goods and chattels, or any part thereof, according to the form and effect of the said condition of the said writing-obligatory, but the doing thereof hath hitherto neglected, and therein wholly failed and made default, whereby the said writing-obligatory became forfeited to the said John Wilkes and Frederick Bull, then sheriff of the said county of Middlesex, and the same being so forfeited, the said John Wilkes and Frederick Bull, then sheriff of the said county of Middlesex, afterwards, to wit, on the twenty-seventh day of June, in the year of Our Lord 1772, at the parish of St. Giles's in the Fields, in the county aforesaid, at the request, costs, and charges of the said Elizabeth, the avowant in the said suit, assigned the said writing-obligatory to the said Elizabeth, according to the form of the statute in such case made and provided, by then and there indorsing that assignment on the said writing-obligatory, and attesting the same under the seal of office of the said sheriff of the said county of Middlesex, in the presence of two credible witnesses, according to the form of the statute in such case made and provided, and now also shewn to the court of our lord the king, before the king himself here, the date whereof is the same day and year last aforesaid, more fully and at large appears; by means of which said premises, and by force of the statute in such case made and provided, an action hath accrued to the said Elizabeth, as assignee of John Wilkes and Frederick Bull, late sheriff of the said county of Middlesex, to demand and have of and from the said William Lucas, Charles Lucas, and Francis Leicester, the said sixty-four pounds seven shillings above demanded; yet the said William Lucas, Charles Lucas, and Francis Leicester, although often requested, &c. have not, nor hath either of them yet paid the said sixty-four pounds seven shillings above demanded, or any part thereof, either to the said John Wilkes and Frederick Bull, late sheriff of the county of Middlesex aforesaid before the said assignment, or to the said Elizabeth Hardy, assignee as aforesaid since the said assignment, or to either of them, but they or either of them to pay the same or any part thereof to the said John Wilkes and Frederick Bull, or to the said Elizabeth, or to either of them, have, and each of them hath hitherto wholly refused, and still do, and each of them doth wholly refuse to pay the same or any part thereof to the said Elizabeth, assignee as aforesaid, to the said Elizabeth, assignee as aforesaid, her damage of twenty pounds; and therefore she brings her suit, &c.

J. MORGAN.

I apprehen

I apprehend that at this time the court would be inclined to censure the excess length of pleading in declarations like the present, if the objection were taken; and as the record in the replevin cause is referred to, would deem it sufficient to state the declaration in replevin, and so much of the *sworn* or cognizance

as shews the plaintiff in this action to be the *sworn* or person making cognizance in the other, to bring him within the meaning of the statute 21. Geo. 2. c. 19. § 23. and to state the subsequent proceedings with a *salutis prorsum* *facti* in the conclusion of this precedent.

JAMES WATSON. } **FOR** that whereas the said plaintiff, before the making the writing obligatory hereafter mentioned, to wit, on, &c. at, &c. seized and took as a distress for certain arrears of rent then and there due, owing, and payable to the mayor, commonalty, and citizens of the city of London, governor of the post-offices, revenues, and goods of the hospitals of Edward king of England, for a certain messuage, land, and premises situate and being at a certain place called, &c. certain goods and chattels of one J. G. to wit, two bedsteads, &c. &c. of the said J. G.; and thereupon the said J. G. afterwards, and after the making of the said distress, to wit, upon complaint by him made to E. R. (he the said E. R. then and there being sheriff of the said county of R.) against the said plaintiff of his having wrongfully taken and detained the said cattle, goods, &c. of him the said J. G. replevied and procured the said E. R. as such sheriff as aforesaid to replevy and deliver unto him the said J. G. his said cattle, goods, &c.: And thereupon the said E. R. so then and there being such sheriff of the said county of R. as aforesaid, according to the form of the statute in such case made and provided, did, before he made such deliverance as aforesaid of the said distress, to wit, on, &c. at, &c. take from the said J. G. and from the said defendant and one J. L. two responsible sureties, a bond in double the value of the said cattle, goods, &c. so distrained as aforesaid, conditioned as by law is required, and as hereafter mentioned, and on that occasion the said J. G. and the said defendant, and the said J. L. then and there, to wit, on, &c. at, &c. by their said bond and writing obligatory, sealed with their respective seals, bearing date the day and year last aforesaid, and to the court of our lord the king here shown, jointly and severally acknowledged themselves to be, and became held and firmly bound to the said E. R. so then and there being such sheriff of the said county of R. as aforesaid, by the name and description of, &c. in the sum of, &c. to be paid to the said sheriff or his assigns upon request, subject nevertheless to a certain condition to the said bond or writing obligatory subjoined to the effect following, that if the said J. G. did appear at the next county court to be held at, &c. and then and there prosecute his action with effect against the said plaintiff for taking and detaining his said goods and chattels heretofore mentioned, and in the said bond or writing obligatory indorsed, and did and should also return thereof, if return thereof should be adjudged by law; and also did and should effectually save and keep harmless and in-

The plaintiff's goods had been seized as a distress for arrears of rent, a suit was prosecuted between the parties, and the goods of the tenant were delivered to the plaintiff in replevy; the sheriff had received a bond from the defendant and one A. B.; this bond was assigned over to the plaintiff, and the present action is founded upon it.

Bond to the sheriff.

Plaint levied.

Refale

Judgment of re-
sorno habendo.

demnified the said sheriff, his deputies, bailiffs, and ministers every of them, for touching and concerning the replevying delivery of the said goods and chattels, and also of, from, against all actions, suits, damages, losses, costs, and charges might arise or happen to him, them, or any of them, in consequence or by means thereof, then that obligation to be void of no effect, or else to be and remain in full force, as by the bond or writing-obligatory, and the condition thereof, relating thereunto had, more fully and at large appears: And the plaintiffs in fact further saith, that the said cattle, &c. having so replevied as aforesaid, and the said J. G. having at the said county court in and for the said county of R. in the said condition of the said bond or writing-obligatory mentioned, levied a complaint against the said plaintiff for taking and unjustly detaining said cattle, &c. the record of the said complaint, was duly had and returned into the court of our lord the king, before the king himself here, by virtue of the writ of our said lord the king of, &c. before then issued of the chancery of our said lord the king at Westminster, directed to the sheriff of R. and returnable and returned before our said lord the king at a certain day now past; and thereupon afterwards after the removal of the said complaint in manner aforesaid, to wit, at Hilary term, in the twenty-sixth, &c. in the court of our said lord the king, before the king himself here, to wit, at, &c. the said J. G. declared against the said plaintiff in the plea of the said complaint, to wit, in a plea wherefore he took the cattle of the said J. G. and them unjustly detained against surety pledges; and thereupon the said J. G. by his said declaration J. T. his attorney, complained, &c. &c. and afterwards the said J. G. in the said court, &c. the said court then and still being against the said plaintiff, by A. B. his attorney, came and defended the said wrong and injury, when, &c. and as bailiff of, &c. well acknowledged the taking of, &c. and for further cognizance in that behalf, the said plaintiff by leave, &c. [copy the several pleas of the plaintiff]: And the said plaintiff in fact further saith, that the further proceedings were afterwards thereupon had in the said court here, that afterwards, to wit, in Trinity term, in the said court, was adjudged by the said court here, that the cognizance of his said plaintiff by him above made in manner and form as the same was above made, and the matters therein contained were sufficient in law for him the said plaintiff to acknowledge the taking of the said cattle, &c. in the said place in which, &c. to be just; and it was also considered by the said court, that the said J. G. should take nothing by his writ aforesaid, but for his false claim that he should be in mercy, and that the said plaintiff should go to the said cattle without day, &c. and that he should have a return of the said cattle, &c. to be delivered to him for ever irrepleviable: And it was further considered by the said court here, that the said plaintiff should recover against the said J. G. thirty-five pounds to and for his costs and charges by him about his defence in that behalf sustained to the said plaintiff by the said court here with his assent.

judged, and that he might have execution thereof, according to the form of the statute, &c. &c. as by the record and proceedings thereof, still remaining in the said court, &c. more fully appears, of which said judgment the said defendant afterwards, to wit, on the day of the recovery thereof, at, &c. had notice, which said judgment still remains in the said court here, to wit, at, &c. in full force, strength, and effect, in nowise revoked or made void: And the said plaintiff avers, that notwithstanding such judgment as aforesaid, and although for having a return of the said cattle, &c. so replevied as aforesaid, pursuant to the said judgment, he the said plaintiff hath caused to be and in, &c. duly issued out of the said court here his majesty's writ of, &c. upon the said judgment directed to, &c. commanding him to return the said cattle, &c. unto the said plaintiff: Yet the said J. G. did not make, nor hath he as yet made return of the said cattle, &c. so replevied as aforesaid, and in the said condition of, &c. mentioned, according to the form and effect of the said condition, but hath therein wholly failed and made default, and the said sheriff of R. to whom the said writ of, &c. was so directed as aforesaid, and afterwards delivered, hath returned and certified on the said writ to our said lord the king at Westminster, on the return day of the said writ, that is to say, on, &c. now last past, that before his receipt of the said writ, the said cattle, goods, &c. in the said writ mentioned were by the said J. G. carried to places to him the said sheriff unknown, so that he was not able to make return thereof to the said plaintiff as in the said writ was commanded, as by the said writ and return thereof remaining, &c. of record in the said court here fully appears; whereby and by reason of which several premises the said bond or writing-obligatory became and was forfeited to the said F. R. the said late sheriff of the said county of R. and the same being so forfeited, and the money therein specified wholly unpaid, he the said E. R. the said late sheriff of the said county of R. aforesaid, to wit, on, &c. at the request and costs of the said plaintiff, the person making cognizance in the aforesaid replevin suit, assigned the said bond or writing-obligatory to the said plaintiff, according to the form of the statute in such case made and provided, by then and there indorsing that assignment on the said bond or writing-obligatory, and attesting the same under his seal as such late sheriff as aforesaid, in the presence of two credible witnesses, according to the form of the statute, &c. as by the said assignment, indorsed on the said bond or writing-obligatory, and duly stamped before the beginning of the present action thereupon, according to the form of the said statute bearing date the day and year last aforesaid, and now also shown to the court here, more fully and at large appears; by reason of which premises, and by force of the statute, &c. an action hath accrued to the said plaintiff, as such assignee as aforesaid, to demand and have of and from the said defendant the said sum of one hundred and twenty pounds in the said bond or writing-obligatory mentioned, and above demanded: Yet the said defendant,

*Writ de retorno
habendo.*

return that the
cattle, &c. were
eloigned.

assignment by
sheriff of the
bond.

although often requested, hath not as yet paid the said two hundred and twenty pounds or any part thereof, but he so to do hath hitherto wholly refused, and still refuses, and the said sum of two hundred and twenty pounds is still wholly due and unpaid, to the damage of, &c. &c.

V. LAWES.

Declaration by the assignee of a steward of a court duly authorised to grant replevins, on a replevin bond against one of the bail; the distress was made by the plaintiff for rent due to him, the suit was removed into C. B. where plaintiff obtained judgment for a return.

Replevin.

Bond.

SUFFOLK, to wit. Thomas Fuller the younger, late of, &c. was summoned to answer James Burges, assignee of sir Charles Davers, &c. &c.; for that whereas the said James heretofore and before the making of the writing-obligatory hereafter mentioned, to wit, on, &c. at, &c. in the said county of S. and within the said liberty of Bury St. Edmunds, in the said county of Suffolk, in a certain place there called Holywell-row field, in the possession of one Simon Leonard, took, seized, and distrained as a distress for certain arrears of rent then and there due and payable from the said S. L. to him the said James, and issuing out of the said field, and then in arrear and unpaid, certain corn and grain of the said Simon Leonard, to wit, four acres of rye of the said S. L. then growing and being in the said field; and thereupon the said S. L. afterwards, and after the making of the said distress, to wit, on, &c. upon complaint by him made to the said sir Charles Davers, baronet, (he the said sir C. D. then and there being chief steward of the liberty of Bury St. Edmunds, in the said county of S. and duly authorised to grant replevins within the said liberty) against the said James, of his having wrongfully taken and detained the said corn and grain of him the said S. L. replevied, and procured the said chief steward of the said liberty to replevy and deliver unto him the said S. L. his said corn and grain; and thereupon the said sir C. D. so then and there being such said steward of the said liberty, and so authorised to grant replevins within the said liberty as aforesaid, according to the form of the statute in such case made and provided, did take from the said S. L. and one T. L. and the said Thomas Fuller the younger, two responsible sureties, a bond in double the value of the said goods and chattels so distrained as aforesaid, and on that occasion the said S. L. and the said T. L. and the said Thomas Fuller the younger, on, &c. at, &c. by their certain writing-obligatory, sealed with their respective seals, and now shewn to the court here, the date whereof is the same day and year last aforesaid, did jointly and severally acknowledge themselves to be held and firmly bound to the said sir C. D. so then and there being such chief steward of the said liberty, and so authorised to grant replevins within the same as aforesaid, by the name and description of sir C. D. baronet, chief steward of the liberty of Bury St. Edmunds, in the said county of S. in forty pounds of lawful money of Great Britain, to be paid to the said sir C. D. or his assigns, when they should be thereto afterwards requested, under and subject nevertheless to a certain condition to the said writing-obligatory subjoined to the effect

effect following, to wit, that if the said S. L. did appear at the next court to be held in and for the said county of S. or liberty of Bury St. Edmunds aforesaid, and then and there did prosecute his suit with effect and without delay against the said James for wrongfully taking and unjustly detaining of the said S. L.'s grain and corn called rye, then standing, growing, and being upon four acres, more or less, of land lying and being in, &c. as was alleged; and also did make return of the said corn or grain in case a return thereof should be awarded by law before any deliverance should be made thereof; and also did save and keep harmless and indemnified the above named sir C. D. his deputy steward, and bailiffs for touching and concerning the deliverance of the said grain or corn, then that obligation to be void, or else to stand and remain in full force and virtue, as by the said writing-obligatory, and the condition thereof, relation being thereto had, may more fully and at large appear; which said replevin with the plaint thereon levied and made was afterwards, to wit, in Trinity term, in the twenty-fifth year of the reign of our said lord the now king, duly removed ^{Plaint levied and removed by replevin.} and brought into the court of our said lord the king of the bench here to be determined as by the record thereof, still remaining in the said court of our said lord the now king of the bench here, more fully appears: And thereupon afterwards, to wit, in that same Trinity term, in the twenty-fifth year aforesaid, in the court of our said lord the now king of the bench, before Alexander lord Loughborough and his brethren there, his majesty's justices of the bench aforesaid, the said S. L. declared against the said James upon the said replevin and in the plea of his said plaint thereon, to wit, in a plea wherefore he took the goods of the said Simon, and them unjustly detained against sureties and pledges, until, &c.: And thereupon the said S. L. then and there by his said declaration, by ^{Declaration in replevin.} W. S. his attorney, complained against the said James, for that he the said James, on, &c. at, &c. in a certain place there called Holywell-row field, took the goods and chattels of the said Simon, to wit, the said grain or corn herein before mentioned to have been distrained as aforesaid, and unjustly detained against sureties and pledges, &c. wherefore the said Simon Leonard said that he was injured, and had sustained damage to the value of forty pounds, and therefore he brought suit, &c.: And the said James ^{Avows for rent arrear under a demise.} afterwards, in Trinity term aforesaid, in the twenty-fifth year aforesaid, by W. F. his attorney, came and defended the wrong and injury, when, &c. and well avowed the taking of the said goods and chattels in the said place in which, &c. because he said that the said Simon Leonard for the space of two years and three quarters of a year, next before and ending on, &c. and from thence until and at the said time, when, &c. enjoyed the said place in which, &c. with the appurtenances, under a demise thereof made to him by the said James, at the yearly rent of three pounds payable in four even and equal portions at the days and times following, that is to say, the, &c. and during all that time held the same of the said James by virtue of the said demise as his tenant thereof, at the rent aforesaid: And that

Judgment of re-
sponde habendo.

that because eight pounds five shillings of the rent aforesaid, due and payable by the said S. L. to the said James for two years and three quarters of a year of the said demise, ending and ended on, &c. on that day, and from thence until and at the said time, when, &c. were in arrear and unpaid to the said James, he the said James well avowed the taking of the said goods, &c. in the said place in which, &c. and justly, &c. for and in the name of a distress for the said rent so in arrear and unpaid, which said rent still remained and was due and owing to the said James, and that he was ready to verify; wherefore he prayed judgment and a return of the said goods and chattels, together with his damages, &c. to be adjudged to him, according to the form of the statute in such case made and provided: And the said James in fact further saith, that such further proceedings were afterwards had in the said court of our said lord the king of the bench, in the said plea upon the aforesaid replevin, that afterwards, to wit, in Michaelmas term, in the twenty-sixth year of the reign of our said lord the now king, it was in and by the said court of our said lord the king of the bench considered, that the said S. L. and his pledges for prosecuting thereof should be in mercy, &c. and that the names of the pledges should be enquired, &c. and that the said James should go thereof without day, &c. and that he should have a return of the goods, &c. aforesaid, and in what manner, &c. the sheriff should make known thereon, in eight days of St. Hilary then next; also it was considered that the said James should recover against the said S. L. forty pounds damages by the said S. J. acknowledged to have been sustained by the said James; and also twenty-four pounds sixteen shillings to the said James by the said court there at his request adjudged for his costs and charges by him about his suit in that behalf expended, which said damages amounted in the whole to sixty-four pounds; and the said S. L. was in mercy, as by the record and proceedings still remaining in the said court of our said lord the king of the bench more fully appears, whereof the said Thomas Fuller afterwards, to wit, on, &c. had notice; which said judgment still remains in the said court of our said lord the now king of the bench here in full force, strength, and effect, in no wise reversed and made void: And the said James avers, that notwithstanding such judgment as aforesaid, the said S. L. did not make, nor hath he as yet made due return of the said grain or corn so replevied as aforesaid, and in the said condition of the said writing-obligatory mentioned or any part thereof, according to the form and effect of the said condition; but therein wholly failed and made default; whereby the said writing-obligatory became and was forfeited to the said sir C. D. then and there being such chief steward in the said liberty of Bury St. Edmunds, in the said county of S. and so authorised to grant replevins in the said liberty as aforesaid; and the same being so forfeited, he the said sir C. D. afterwards, to wit, on, &c. at the request and costs of the said James, the avowant aforesaid, assigned the said writing-obligatory to the said James, as such avowant as aforesaid, accord-

Assignment by
sheriff.

ing

to the form, &c. by then and there indorsing that assignment on the said writing-obligatory, and attesting the same under his seal of office as such county sheriff as aforesaid, in the presence of two credible witnesses, according to the form, &c. as by the said assignment, indorsed on the said writing-obligatory, and duly stamped before the day of suing out the original writ of the said James, according to the form, &c. and bearing date the day and year last aforesaid, and now also shewn to the court here, more fully and at large appear; by means of which said premises, and by force of the statute, &c. an action hath accrued to the said James, to demand and have of and from the said Thomas the said forty pounds above demanded; yet the said Thomas, although often requested, hath not yet paid the said forty pounds or any part thereof, but he so to do hath hitherto wholly refused, and still refuses, to the damage of the said James of forty pounds, &c. &c.

V. LAWES.

ON CHARTER-PARTY.

Michaelmas Term, 12. Geo. III.

TOWN OF NEWCASTLE-UPON-TYNE. Edward Gyles, administrator of all and singular the goods, rights, and credits which were belonging to John Gyles deceased, at the time of his death, who died intestate, complains against George Charlton and Cornelius Charlton, being, &c. of a plea that they render to him one hundred pounds of lawful money of Great Britain, which they unjustly detain from him, &c.; for that whereas at the time of the making of the charter-party of affreightment herein after mentioned, the said defendants were partners and joint dealers in trade, to wit, at the town of Newcastle-upon-Tyne, in the county of the same town, and defendants so being partners and joint dealers in trade as aforesaid, by a certain charter-party of affreightment made at the town of Newcastle-upon-Tyne aforesaid, in the county aforesaid, on the twentieth day of December, in the eleventh year of the reign of our sovereign lord the now king, and A. D. 1770, between the said John Gyles in his lifetime by the name and description of John Gyles, owner of the good ship or vessel called the Dorothy and Isabella, of Shields, of the burthen of two hundred and forty tons or thereabouts, then lying in the river Tyne, of the one part, and the said defendants by the names and descriptions of, &c. merchants, freighters of the said ship, of the other part; one part of which said charter-party, sealed with the seal of said defendants, said plaintiff now brings into court here, the date whereof is the same day and year aforesaid: It is witnessed that the said owner had that day letten the said ship to freight for one voyage, and that the said freighters had sealed the same in manner and form following, that is to say, that

Declaration in B. R. in debt on a charter-party, at suit of the administrator of the owner against freighters of the vessel to recover the penalty for the extra time they took in unloading.

the

the said ship then was and should during the said voyage be, at the expence of the said owner, or his assigns, kept staunch, tight, strong, well manned, victualled, tackled, and provided in every respect fit for merchants service, and particularly for performing such voyage, and the damages and perils of the seas, restraints of princes and rulers, fire, and engines during the said voyage, always excepted; and also that said John Gyles, or his assigns, should forthwith receive and take in and on board the said ship in the river Tyne a full and complete loading with coals from the order and of the goods and adventure of the said freighters, or their assigns, and being so loaden said John Gyles, or his assigns, with the ship and cargo should with the first opportunity of wind and weather proceed directly for London, and on her arrival there should deliver the same to the order of said freighters, at such convenient place or places where said ship and cargo could safely come, and also that the said ship should for their unloading lye the full space of eight lawful working days, if required, and so to end the said intended voyage; and in consideration thereof, said freighters did thereby agree not only to load and put on board the said ship the said cargo as aforesaid, and to receive, or cause the same to be received from on board her at London, and within the days and time limited for her unloading as aforesaid; but to pay or cause to be paid unto the said John Gyles, or his assigns, upon the safe delivery of the said cargo as aforesaid, in full, for the freight and hire of said ship for the said voyage, at and after the rate of twelve shillings and three-pence *per* chaldron of coals, London measure, which should be taken in and on board the said ship and delivered as aforesaid, and that said defendants should pay all costs and charges upon and for the said loading of coals, except trimming, keelmen's hire, pilotage, and delivery, which the said John Gyles thereby agreed to pay, or allow out of the said freight, together with the sum of two pounds *per* day, to be paid day by day as the same should grow due, for every day of said ship's detention over and above the days and times limited for her unloading as aforesaid, for the true performance thereof, each of said parties by the said charter-party of affreightment bound himself, his executors, administrators, and assigns reciprocally unto the other, especially the said John Gyles bound said ship or freight, and appurtenances, and said freighters their goods to be loaden on board her, each to the other in the penal sum of one hundred pounds of lawful British money, as by the said charter-party, relation being thereto had, may more fully and at large appear, and said plaintiff as administrator as aforesaid in fact says, that said J. Giles in his lifetime, in pursuance of said charter-party afterwards, to wit, on the twenty-fourth day of December, in said A. D. 1770, at Newcastle-upon-Tyne aforesaid, in the county aforesaid, did receive and take in and on board the said ship in the river Tyne a full and complete loading of coals from the order and of the goods and adventure of said defendants, and said ship being so freighted and loaden, the said J. Gyles with the ship and cargo did with the

J. MORGAN.

MIDDLESEX, to wit. John Powel, late of Fulham, in the Declaration in
County of Middlesex, esquire, was summoned to answer unto C. B. in debt on
Jacob Gotfred Hippius and John Wray, in a plea that he render charter-party, at
unto them said plaintiffs three thousand five hundred pounds of suit of owners
against the
ship, for the value of the ship and stores (which were taken by the enemy during the voyage)
and for reasonable wear and tear, &c.

lawful,

lawful, &c. which he owes to and unjustly detains from them, &c.; and thereupon the said plaintiffs, by Giles Bleasdale their attorney, complain, that whereas by a certain charter-party of affreightment indented, made, and concluded on the second day of August, in the year of Our Lord 1782, to wit, at Westminster, in the county of Middlesex, by the same plaintiffs, by the name and description of Messrs. Hippius and Company of London, merchants, owners of the good ship or vessel called the Hope, of the burthen of four hundred and seventeen tons, then lying at anchor in the river of *London Thames*, whereof John Briggs was master, of the one part, and said defendant, by the name and description of, &c. of the other part: It was and is witnessed that said owners, for the considerations thereafter mentioned, had letten, and said defendant had hired and taken said ship to freight by the month for the space of six calendar months certain (unless she should be sooner taken, sunk, or burnt by the enemy, or lost in consequence of any attack from the enemy), and for such further term as the freighter should think proper, until her return to Deptford in the river of Thames aforesaid, and the masters receiving notice of her discharge being for a voyage or voyages with her to be made from that port of London to any port or ports, harbours, islands, or other places in or out of Europe back to London, upon the terms and conditions thereafter mentioned; whereupon the said owners did by the said charter-party covenant, promise, and agree, to and with the said freighter, that his said ship should at the said port of London, as well as at the several ports and places to which he might be ordered during that present affreightment, be tight, staunch, and strong, well officered and manned, sufficiently victualled, and properly tackled, apparelled, equipped, and provided with all things needful and requisite for such a ship, and the voyage or voyages she should be directed to make, and that she should take and receive on board in the river Thames a full and complete cargo of such lawful goods and merchandizes as the said freighter, his agents or factors, should think proper, not exceeding what the said ship could safely stow and carry over and above her tackle, apparel, provisions, stores, and furniture, and should proceed and sail directly with such cargo to any port or ports, harbours, islands, or other places the said freighter, his factor or agent, should order, and there, or as near thereto as she could safely get, unload and deliver the same, and afterwards reload such other lawful goods and merchandizes not exceeding as aforesaid, as might be tendered for that purpose, and proceed to and faithfully deliver the same at such other port or ports, harbours, islands, or other places to which she might be ordered, and to continue until her final discharge at Deptford as aforesaid, at and in the loading and unloading of which cargoes the master of said ship, with his officers and ship's company, should from time to time, and at all times aid and assist to the utmost of their power as occasion should require: And the said owners did further agree to and with said freighter, that during said ship's continuance in his the said freighter's

ter's service, the master should duly observe and obey all and singular the lawful orders of said freighter, his factors or assigns, as well in respect to her several voyages, and destinations, as to the cargo to be loaden on board and unloaden out of her, and that her several voyages should be performed with all expedition and safety (the perils and dangers of the sea, restraint of princes and rulers, and all other unavoidable casualties always excepted), in consideration whereof said freighter did covenant, promise, and agree, to and with the said owners by the said charter-party, not only to load, unload, and regularly dispatch said ship at and from the several places to which he might be ordered, and to furnish the master from time to time with necessary orders and instructions for his government, but also well and truly pay, or cause to be paid unto such owner or their order in full for the freight and hire of the said ship for the whole of said voyage or voyages, acting after the rate of twelve shillings and sixpence sterling *per ton per month*, to be calculated by the number of tons the said ship carried, as in said charter-party was above specified, for six calendar months certain, unless sooner taken, sunk, or burnt by the enemy, or lost in consequence of any attack from the enemy, and at and after, and the like rate of twelve shillings and sixpence sterling *per ton per month* for all such longer time, and so many other calendar months as said ship should be continued in said freighter's service, and proportionably for a less time than a calendar month, the said ship to commence and be accounted at and from the day on which she should first begin to receive goods on board in the river of Thames, and to go until the time of notice of discharge being given in writing to the master of said ship after her arrival at Deptford as aforesaid, and to be paid unto said owners for their said order, in manner following, that is to say, two months pay upon the said owners signing that then present charter-party, two other months pay upon and as soon as the said ship should have been six calendar months complete in the said freighter's service, and after, two months pay at the end and expiration of every subsequent four calendar months during her service and employ, and the residue of the pay and freight that should be due upon her final discharge at Deptford; provided always, and it was by said charter-party agreed and understood by and between said parties, that if the said ship should happen to be burnt, sunk, or taken by the enemy, or to be lost in consequence of any attack of the enemy during her continuance in his the said freighter's service, then the said pay or freight should be made up and paid to the time only of such event taking place, and in such case he the said freighter should and would, upon certain advice being received of such burning, sinking, or loss, well and truly pay, or cause to be paid to said owners the value of said ship, her stores, and appurtenances thereby settled and adjudged at one thousand eight hundred and six pounds sterling, reasonable wear and tear for the time she should have been employed to be first estimated by two indifferent skilful persons, one to be chosen by each party, and to be deducted

ducted from the said value, and should said ship be damaged only by or in consequence of any attack from the enemy, then such damage should be paid for by said freighter, according to the estimate thereof to be made as aforesaid, any thing thereintoforesaid contained to the contrary notwithstanding, and to performance thereof the said parties did bind and oblige themselves, their executors and administrators especially, the said owners did bind their said ship, her freight, tackle, apparel, and furniture, and the said freighter, the goods to be loaden on board her either to the other, and to the executors, administrators, and assigns of each other in the penal sum of three thousand five hundred pounds sterling firmly thereby, as by said charter-party, reference being thereunto had, will more fully and at large appear: And said plaintiffs in fact say, that after the making of said charter-party, and during the aforesaid affreightment, to wit, on the day and year aforesaid, at Westminster aforesaid, the said ship or vessel in said charter-party mentioned was by said defendant, the freighter thereof as aforesaid, directed to sail on a certain voyage, that is to say, on a certain voyage from the port of London, where she then was, to Gibraltar, *under convoy of a certain fleet of men of war commanded by the right honourable Richard Lord Howe*, but in case she should leave her convoy, then the said ship or vessel was directed to proceed for the rock of Lisbon, and that said ship or vessel was then and there, that is to say, on the day and year aforesaid, in the said port of London, that is to say, at Westminster aforesaid, tight, staunch, and strong, well officered and manned, sufficiently victualled, and properly tackled, apparelled, equipped, and provided with all things needful and requisite for such a ship, and the said voyage she was so directed and about to make as aforesaid, according to the tenor and effect of said charter-party, and the covenant of said plaintiff in that behalf made as aforesaid: And said plaintiffs in fact further say, that afterwards, and during the aforesaid affreightment, to wit, on the day and year aforesaid, the said ship in said charter-party mentioned did take and receive on board in the said river of Thames (that is to say, at Westminster aforesaid; a full and complete cargo of such lawful goods and merchandizes, and said defendant, the freighter of said ship or vessel as aforesaid), and his agents and factors in that behalf did then and there think proper, not exceeding what the said ship could safely stow and carry over and above her tackle, apparel, provisions, stores, and furniture, and did directly, and during her aforesaid affreightment, to wit, on the day and year last aforesaid, and pursuant to the order of said defendant as such freighter as aforesaid in that behalf and the true intent and meaning of said charter-party, sail and proceed on her said directed voyage from the port of London to Gibraltar aforesaid, *under such convoy as aforesaid*, to wit, at Westminster aforesaid, in said county of Middlesex: And said plaintiffs in part further say, that afterwards, and after the departure of said ship or vessel from the port of London on her said voyage so directed as aforesaid, whilst she was sailing and proceeding on

on the same, and before her arrival at Gibraltar aforesaid, to wit, on the third day of October, A. D. 1782, said ship or vessel lost and separated from her aforesaid convoy, whereupon said ship or vessel did forthwith proceed for and towards the Rock of Lisbon, pursuant to the aforesaid directions of said defendant, as such freighter thereof as aforesaid: But said plaintiffs in fact further say, that afterwards, and while said ship or vessel was sailing and proceeding for said Rock of Lisbon, and before she arrived there, and while she was in the service of said defendant, as such freighter thereof as aforesaid, to wit, on the eighth of October, in said A. D. 1782, the said ship or vessel was upon the high seas with force and arms, and in an hostile manner taken by the enemy, to wit, by certain subjects of the *Spanish* king, then being enemies of our lord the now king, whereby said ship or vessel, together with her stores and appurtenances, became and were totally lost, to wit, at Westminster aforesaid, in said county of Middlesex; and said plaintiffs aver, that although said defendant afterwards, and before the suing forth of the original writ of the said plaintiffs in this suit, to wit, on the first of November in the year aforesaid, at Westminster aforesaid, had certain advice of said taking of said ship or vessel, and although the reasonable wear and tear of said ship or vessel, with her stores and appurtenances, for and during the time she was so employed under the said charter-party as aforesaid, was afterwards, to wit, on the day and year last aforesaid, at Westminster aforesaid, and according to the tenor and effect of said charter-party, estimated at a certain sum, to wit, the sum of fifteen pounds eight shillings of lawful money of Great Britain, that is to say, by a certain skilful and indifferent person chosen by and on the part and behalf of said defendant, as such freighter of said ship or vessel as aforesaid, but whose name is at present unknown to said plaintiffs, and which said estimate was afterwards approved and agreed to by said plaintiffs, who thereupon, and with the consent and approbation of said defendant, declined choosing any person to estimate the wear and tear on their part, whereof said defendant afterwards, to wit, on the day and year last aforesaid, at Westminster aforesaid, had notice; and whereby and by means of which said several premises, and according to the tenor and effect of the said charter-party, he said defendant became then and there liable to pay to said plaintiffs, as such owners of said ship or vessel in said charter-party mentioned as aforesaid, a large sum of money, to wit, the sum of one thousand seven hundred and ninety pounds twelve shillings of lawful money of Great Britain, being the value of the said ship, or stores and appurtenances as settled and adjusted by the said charter-party, after deducting thereout the said sum of fifteen pounds eight shillings so estimated for reasonable wear and tear as aforesaid; and although said defendant was then and there requested to pay such value to them said plaintiffs, according to the tenor and effect of said charter-party, yet said defendant did not, when he was so requested as aforesaid, or at any other time, pay to them said plaintiffs, or either of them, said sum

of one thousand seven hundred and ninety pounds twelve shillings, so being such value of such ship or vessel in said charter-party mentioned, her stores and appurtenances, after such deduction for wear and tear as aforesaid, or any part thereof, but wholly refused so to do, and said sum of one thousand seven hundred and ninety pounds twelve shillings is still wholly unpaid to said plaintiffs, contrary to the form and effect of said charter-party, to wit, at Westminster aforesaid, whereby and according to the tenor and effect of said charter-party, said defendant forfeited and became liable to pay to said plaintiff said penal sum of three thousand five hundred pounds in said charter-party mentioned, and by reason thereof an action hath accrued to them said plaintiffs to demand and have of and from said defendants the sum of three thousand five hundred pounds above demanded; yet said defendants, although often requested, hath not as yet paid the said sum of three thousand five hundred pounds above demanded, or any part thereof to them said plaintiffs or to either of them, but he to pay the same or any part thereof to said plaintiffs hath hitherto wholly refused, and still refuse; wherefore said plaintiffs say they are injured, and have sustained damage to the amount of ten pounds, and therefore they bring their suit, &c.; and they also bring into court here one part of said charter-party of affreightment hereinbefore mentioned, sealed with the seal of said plaintiff, and bearing date the same day and year first above-mentioned.

V. GIBBS.

The voyage is stated to Gibraltar directly, but if the ship was destined to any other place, and was to stop at any particular port or place, and take in any other goods in her way, it should, I conceive, be stated.

The ship was to sail with this particular convoy. If she was not, and the directions were general, should the declaration be altered accordingly.

If the ship was to sail with convoy generally, omit the words in *Italic*.

Declaration in debt against defendant for the penalty of eight hundred pounds for non-performance of a charter party entered into between plaintiff and defendant for the hire of plaintiff's ship, which was to carry defendant's goods from London to the ports of A. and B. and stay there respectively sixty five days for unloading and receiving her homeward-bound cargo, and ten days more if necessary. Plaintiff shews a specific performance of the outward voyage on his part, and assigns for breach that defendants did not, during the time aforesaid, load and dispatch the ship from the ports of A. and B. or either of them, with goods to London, contrary to their covenants.

LONDON, to wit. Plaintiff complains of defendants, being, &c. of a plea that they render to the said plaintiff eight hundred pounds of, &c. which they owe to and unjustly detain from him; for that whereas by a certain charter-party of affreightment indentured and made on, &c. between the said plaintiff (by the name and description of John Cuffey, of, &c. owner of the good ship or brigantine called the A. B. burthen one hundred and thirty tons or thereabouts, then in the river Thames whereof one T. D. was master) of the one part, and the said defendants (by the names and descriptions of Allan Auld and William Ross, of London, merchants) of the other part (one part of which said charter-party,

bearing

bearing date the same day and year aforesaid, sealed with the seals of the said defendants, the said plaintiff now brings here into court) : It is witnessed that the said plaintiff, for the considerations thereafter mentioned, had granted and let, and the said defendants had accordingly hired and taken the said ship to freight for the voyage, and on the terms and considerations thereafter mentioned, that is to say, first, the said plaintiff for himself, his executors, and administrators, did thereby covenant, promise, and agree to and with the said defendants, their executors, administrators, and assigns, that the said ship being tight, staunch, and strong, and well manned, tackled, and provided, and fit for merchants service, and the voyage thereafter mentioned, would stay in the Thames until the eleventh of November then next, if not sooner dispatched, and load, receive, and take on board her from the said defendants, their factors and assigns, all such goods and merchandizes as they or any of them should tender to be loaden, not exceeding what the said ship could reasonably stow and carry, over and above her tackle, apparel, and furniture, and therewith directly, as wind and weather would permit, sail and proceed to the respective ports of L. and S. on the coast of Barbary, or as near thereto as she could safely get, and there unload and deliver to the said defendants, their factors or assigns, all such goods and merchandizes as should have been by them or any of them loaden on board the said ship in the river Thames as aforesaid, and then and there at both or one of the said ports of L. or S. as directed, load, receive, and take on board her from the said defendants, &c. &c. [set forth the charter-party, which was that the ship was to be kept sixty-five days in discharging her cargo, and ten days over that time on demorage if required, on paying to plaintiff fifty shillings for each day; the parties bound themselves in the penalty of eight hundred pounds for the true performance of the covenants], as by the said charter-party of affreightment, relation being thereto had, may more fully appear : And the said plaintiff in fact says, that the said ship afterwards, to wit, on, &c. being tight, staunch, and strong, and well manned, tackled, and provided, fit for merchants service for the voyage in the said charter-party of affreightment mentioned, and having stayed in the river Thames until the said eleventh of November 1770, and having received and taken on board her all such goods and merchandizes as the said defendants, their factors or assigns, tendered or offered to be loaden, not exceeding what the said ship could reasonably stow, over and above her tackle, apparel, and furniture, whereof great quantities were taken on board the said ship, and being therewith dispatched, did depart and set sail from the said river Thames, where the said ship then lay, towards and to the respective ports of L. and S. on the coast of Barbary, and arrived on the first of January 1771, at or as near the said port of L. as she could safely get, whereof the said factors and assigns of the said defendants, on, &c. there had notice, and did stay and continue there until the twenty-second day of March then next following, to wit, in the said year

1771, and did there unload and deliver to the said defendants, their factors or assigns, all goods and merchandizes that were loaden by them on board the said ship in the said river Thames as aforesaid, and to be unloaden at the said last-mentioned port of L. and stayed and continued at the said port of L. for the space of sixty-five running days, and the said ship afterwards, to wit, on, &c. being then dispatched by the said factors or assigns of the said defendants, did sail and proceed to the said port of S. arrived, to wit, on, &c. as near to the said port of S. as she could conveniently get, whereof the said factors and assigns of the said defendants, on, &c. there had notice, and did unload and deliver unto the said defendants, their factors or assigns, all such goods that were loaden by them on board the said ship in the said river Thames, to be unloaden at the said last-mentioned port of S. for the space of sixty-five running days, and did also stay and continue at the said port of S. for the space of ten days after the expiration of the said sixty-five days: Yet the said defendants, their factors or assigns, did not, during that time or at any other time, load and dispatch the said ship at and from the ports of L. and S. or either of them with any goods and merchandizes to be carried from thence to London aforesaid, according to the form and effect of the said charter-party, and the said covenant of the said defendants by them in that behalf made as aforesaid, but so to do they the said defendants wholly refused, contrary, &c. *per quod actio accrevit*; yet, &c.

F. BULLER.

Plea, 1st, that the ship did not stay at the ports of L. and S. 65 running days, and 10 days more.

2d Plea, that after her arrival at S. and before the expiration of 65 days, and 10 days, defendants offered and tendered goods on board, &c. but plaintiff refused to receive them.

And the said defendants, by A. B. their attorney, come and defend the wrong and injury, when, &c. and say *actio non*; because they say, that the said ship did not stay and continue at the said port of L. and S. respectively for the space of sixty-five running days or any number of days, nor for the space of ten or any number of days after the expiration of the said supposed sixty-five days, in manner and form as the said plaintiff hath in his said declaration above alledged; and of this they put themselves upon the country, and the said plaintiff doth the like, &c.: And for further plea in this behalf, by leave, &c. *actio non*; because they say, that after the arrival of the said ship at S. as in the said declaration is mentioned, and within the space of sixty-five days, and ten days after the expiration of the said sixty-five days from the arrival of the said ship at the said last-mentioned port, to wit, on, &c. at, &c. that they the said defendants did offer and tender goods and merchandizes to load on board the said ship in her homeward bound voyage from the said port of S. to the port of London, and dispatch the said ship with the same from the said port of S. for her return to the port of London, as it was lawful for them to do, according to the purport and true intent of the said charter-party of affreightment, but which said goods and merchandizes the said defendants then and there refused to receive on board the said ship there for her homeward bound voyage, and to sail homeward to the port of London, according to the form and effect of the said charter-

charter-party; and this, &c.; wherefore, &c.: And for further plea, by leave, &c. *actio non*; because they say, that after the arrival of the said ship at the said port of S. as in the said declaration mentioned, and within the space of sixty-five running days, and ten days after the expiration of the said sixty-five running days from the arrival of the said ship at the said last-mentioned port, to wit, on, &c. at, &c. they the said defendants did, during the said time of the said ship so being at L. and S. load and dispatch the said ship at and from the said ports of L. and S. respectively, with divers goods and merchandizes to be carried from thence to London, according to the form and effect of the said charter-party; and of this they put themselves upon the country, &c.: And for further plea in this behalf, by leave, &c. *actio non*; because they say, that after the arrival of the said ship at the said port of S. as in the said declaration is mentioned, and within the space of sixty-five running days, and ten days after the expiration of the said sixty-five running days from the arrival of the said ship at the port of S. last-mentioned, to wit, on, &c. at, &c. the said R. B. in the said declaration mentioned, captain of the said ship, did with the said ship, and before the same could be loaded by the said defendants, without the consent and in despite of the said defendants, quit the said port of S. and departed to places unknown to the said defendants, to wit, at, &c.; and this, &c.; wherefore, &c. &c.

3d Plea, that defendants, after her arrival and before the expiration of 65 and 10 days, loaded and dispatched the ship from the ports of L. and S. to London.

4th Plea, that after her arrival, and within, &c. the captain, without defendants licence, quitted the port with the ship to places unknown.

THOMAS WALKER.

And the said plaintiff, as to the said plea of the said defendants by them secondly above pleaded in bar, say *precludi non*; because he says, that the said defendants, within the space of sixty-five days, and ten days after the expiration of the said sixty-five days from the arrival of the said ship at the said port of S. did not offer and tender to the said plaintiff goods and merchandizes to load on board the said ship on her homeward voyage, from the said port of S. for her return to the port of London, and to dispatch the said ship with the same for the said port of London *modo et forma*; and this he prays may be enquired of by the country, &c.: And the said plaintiff, as to the said plea of the said defendants by them lastly above pleaded, says *precludi non*; because that the said plaintiff did not within the space of sixty-five running days, and ten days after the expiration of the said sixty-five running days from the arrival of the said ship at the said port of S. with the said ship, quit the said port of S. *modo et forma*; and this he prays may be enquired of by the country, &c.; therefore, &c.

Replication, issue on the 2d plea.

Issue on last plea.

F. BULLER.

ON POLICIES OF ASSURANCE.

Hilary Term, 30. Geo. III.

Declaration in
debt, against the
London Assu-
rance, on a seal-
ed policy of as-
surance of a ship
and cargo from
London to Gib-
raltar; ship
bulged and
strained during
the voyage.

LONDON, to wit. The governor and company of the London Assurance were summoned to answer Jacob Mendes Da Costa the elder, of a plea that they render to the said Jacob Mendes four thousand and two hundred pounds of lawful money of Great Britain, which they owe to him and unjustly detain from him, &c.; and whereupon the said Jacob Mendes, by Thomas Thoresby his attorney, says, that whereas by a certain deed poll or policy of assurance made on the second day of September, in the year of Our Lord 1788, at London aforesaid, to wit, in the parish of St. Mary-le-bow, in the ward of Cheap, by the said governor and company, and sealed with the common seal of the said governor and company, and which said deed or policy of assurance, sealed with the seal of the said governor and company, the said Jacob Mendes now brings here into court, the date whereof is the same day and year aforesaid, *the said Jacob Mendes for Solomon Israel*, as well in his own name as for and in the name and names of all and every other person or persons to whom the same did, might, or should appertain, in part or in all, did make assurance and caused himself and them, and every of them to be assured, lost or not lost, *at and from London to Gibraltar*, and at and from thence to Marseilles, *upon any kind of goods and merchandizes whatsoever, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the Diamond*, whereof was master under God for that voyage *Robert Smith*, or whosoever else should go for master in the said ship or vessel, or by whatsoever other name or names the said ship or vessel or the master thereof was or should be named or called, beginning the adventure upon the said goods and merchandizes from and immediately following the loading thereof aboard the said ship or vessel at London, and upon the said ship or vessel, &c. at and from London, and so should continue and endure during her abode there upon the said ship or vessel, &c. and further until the said ship or vessel with all her ordnance, tackle, apparel, &c. and goods and merchandizes whatsoever should be arrived as aforesaid, and upon the said ship or vessel, &c. until she had moored at anchor twenty-four hours in good safety, and upon the goods and merchandizes until the same should be there safely discharged and landed, and it should be lawful for the said ship or vessel, &c. in that voyage to proceed and sail to and touch and stay at any ports whatsoever without prejudice to that assurance, the said ship or vessel, &c. goods and merchandizes, &c. for so much as concerned the assureds (by agreement between the assureds and the London assurance) were and should be rated and valued at

at, &c. as underwritten, without farther or other account to be given by the assureds for the same touching the adventures and perils which the said London Assurance were contented to bear, and did take upon them in that voyage, they were of the seas, men of war, fire, enemies, pirates, rovers, thieves, jetizens, letters of mart and counter-mart, surprizals, takings at sea, arrests, restraints, and detainments of all kings, princes, and people, of what nation, condition, and quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes that had or should come to the hurt, detriment, or damage of the said goods and merchandizes, and ship or vessel, &c. or any part thereof, and in case of any loss or misfortune it should be lawful to the assureds, their factors, servants, and assigns, to sue, labour, and travel, for, in, and about the defence, safeguard, and recovery of the said goods and merchandizes, and ship or vessel, &c. or any part thereof, without prejudice to that assurance, to the charges whereof the said London Assurance would contribute, according to the rate and quantity of the sum therein assured, and it was agreed that that writing or policy of assurance should be of as much force and effect as the surest writing or policy of assurance theretofore made in Lombard-street, or in the Royal Exchange, or elsewhere in London; and so the said London Assurance were contented, and did thereby promise and bind themselves and their successors to the assureds, their executors, administrators, and assigns, for the due performance of the premises, confessing themselves paid the consideration due unto them for that assurance by the assureds, at and after the rate of two pounds *per cent.* and in case of loss to abate pounds *per cent.* in witness whereof the said London Assurance had caused their common seal to be thereunto affixed, and the sum and sums by them assured to be therein underwritten, under which said deed or policy of assurance a certain memorandum was then there written, whereby the said governor and company declared the said policy to be free from average on corn, fish, salt, and seeds, except general, free from average on sugar, rum, hides, skins, hemp, flax, and tobacco, under five pounds *per cent.* and on all other goods and ships under three pounds *per cent.* except general; and also a certain other memorandum was then and there written, whereby the said governor and company declared themselves to be content with that assurance for fourteen hundred pounds on the whole ship valued at that sum, as by the said deed or policy of assurance and memorandum so made as aforesaid more fully appears; and thereupon the said governor and company became insurers to the said Jacob Mendes for the said sum of fourteen hundred pounds in the said deed or policy of assurance mentioned: And the said Jacob Mendes further says, ad Count, for money had and received in debt that the said Solomon Israel, at the time of the making of the said deed or policy, and at the time of the loss hereinafter mentioned, was interested in the said ship in the said deed or policy mentioned to a large value, that is to say, to the value of all the monies insured thereon by virtue of the said deed or policy, and that the said insurance so

3d Count, money paid.

made as aforesaid was made for and on the account and for the use and benefit of the said Solomon Israel, to wit, at London aforesaid, in the parish and ward aforesaid: And the said Jacob Mendes further says, that afterwards, to wit, on the said second day of September, in the year of Our Lord 1788, the said ship was in safety, to wit, at London, aforesaid in the parish and ward aforesaid, and that afterwards, to wit, on the sixth day February, in the year of Our Lord 1789, *the said ship departed and set sail from London aforesaid, on her said intended voyage towards Gibraltar and Marseilles in the said deed or policy mentioned, and that afterwards, and whilst the said ship was sailing and proceeding on her said intended voyage, and before her arrival at Marseilles aforesaid, to wit, on the seventeenth day of March, in the year last aforesaid, the said ship on the high seas was, by and through the mere danger of the seas, and the force and violence of the winds and waves, and by means of stormy and tempestuous weather, greatly damaged, opened in the seams and between the planks, broken, shattered, bulged, and thereby became of little or no value to the said Solomon Israel, of all which said premises the said governor and company afterwards, to wit, on the first day of May, in the year last aforesaid, at London aforesaid, in the parish and ward aforesaid, there had notice; by reason whereof an action hath accrued to the said Jacob Mendes to demand and have of and from the said governor and company the said fourteen hundred pounds so insured as aforesaid, parcel of the said four thousand and two hundred pounds above demanded: And whereas also the said governor and company afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, were indebted to the said Jacob Mendes in the further sum of one thousand four hundred pounds of lawful money of Great Britain, for so much money by the said governor and company before that time had and received to and for the use of the said Jacob Mendes: And whereas also the governor and company afterwards, to wit, on the day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, were indebted to the said Jacob Mendes in the further sum one thousand and four hundred pounds of like lawful money, for so much money by the said Jacob Mendes before that time paid, laid out, and expended for the said governor and company, and at their special instance and request: Yet the said governor and company, although often requested, have not paid the said four thousand and two hundred pounds or any part thereof to the said Jacob Mendes, but to pay the same or any part thereof to the said Jacob Mendes, the said governor and company have hitherto altogether refused and still do refuse; whereupon the said Jacob Mendes saith he is injured and hath sustained damage to the value of twenty pounds; and therefore he brings suit, &c. Pledges, &c.*

THE GOVERNOR AND COMPANY
OF THE LONDON ASSURANCE
at suit of
D A COSTA.

To wit. And the said governor and company of the London Assurance, by A. B. their attorney, come and defend the wrong and injury, when, &c. and say, that they do not owe the said Jacob Mendes the said four thousand two hundred pounds in the said declaration mentioned above demanded or any part thereof, in manner and form as the said Jacob Mendes has above thereof complained against them; and of this they put themselves upon the country, &c.

It is determined in the case of Warren & Consett, 2. Ld. Raym. 1500. and 2. Str. 771. that in order to ascertain the proper plea to an action of debt upon a sealed instrument, it is necessary to consider whether the action is founded wholly upon the deed itself, or substantially; and in such upon some matter of fact, that is not otherwise dependant upon the deed than as its intended force and effect upon the contracting parties is defined and regulated by it. In the latter case the defendant is allowed either wholly to deny the deed, or to confess and avoid it, or, under the general plea of *nil debet*, to deny all the facts contained in the plaintiff's declaration, and thereby to put him upon proof of all; because the deed then is only stated as inducement or explanatory of the facts that constitute the plaintiff's cause of action, and in that case becomes itself a component fact; but in the former case (as suppose a bond where the deed acknowledges a debt, or debt for a penalty in a

deed for not performing an agreement, which the case of Warren and Consett was) the defendant can only deny the deed, or confess and avoid it merely; for as the deed creates the debt, the plaintiff has only to shew it to be in force to maintain his action upon it; and if the defendant will discharge himself from it, he must either impeach its validity, or shew a performance of it.

I incline to think a contract of indemnity, the declaration being in debt, a case within the latter branch of the rule in which the defendant may plead *nil debet*, and put the plaintiff upon proof of all the facts of his case, and have therefore drawn such plea. But since writing the above I find the stat. of 11. Geo. 1. c. 30. s. 43. expressly gives such plea in this case, and puts the matter out of all dispute.

T. BARROW.

When *nil debet* may be pleaded to an action of debt on an instrument, and when the defendant must deny the deed or plead specially in avoidance of it.

ON INDENTURES.

Trinity Term, 12. Geo. III.

MARGRAVE } AND the said Robert, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and saith *actio non*; because he saith, that the said Robert heretofore, that is to say, in Hilary term, in the twelfth year of the reign of, &c. impleaded the said Robert in his majesty's court, before sir William De Grey, knight, and his brethren, then his majesty's justices of the bench at Westminster, in the county of Middlesex, in a certain plea of debt on demand for five pounds of and upon the very same identical indenture mentioned

Plea of judgment recovered in C. B. to an action of debt on an indenture for non-payment of money.

ed in the said declaration, and being for the very same identical sum of ten pounds above demanded, and such proceedings were thereupon had in the said court of our lord the king of the bench in that plea that the said David afterwards, to wit, in that very same Hilary term, in the twelfth year aforesaid, by the consideration and judgment of that court, recovered against the said Robert his said debt, and also fifty shillings, which in and by the said court of our lord the king of the bench in that plea were adjudged to him the said David for his damages which he had sustained, as well on occasion of the detaining of the said debt as for his costs and charges by him laid out about his suit in that behalf, whereof the said Robert was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king of the bench at Westminster, reference being thereto had, may more fully and at large appear, which said judgment still remains in full force, strength, and effect, not in the least reversed or made void; and this he the said Robert is ready to verify by the said record; wherefore, &c. if, &c.

Michaelmas Term, 25. Geo. III.

Declaration in debt against defendant and his wife, for not paying plaintiff an annuity which was left him by one E. M. who had devised lands to defendant's wife, and had made her sole executrix of his will before her marriage with defendant, and out of which lands the annuity was to be paid, &c.

NORTHAMPTONSHIRE, to wit. James Swinfew and Elizabeth his wife, were summoned to answer John Matcham Coleman in a plea that they render to him twenty-four pounds of, &c. which they owe to and unjustly detain from him, and thereupon the said plaintiff, by A. B. his attorney, complains, that whereas one E. M. now deceased, in her lifetime, to wit, on, &c. and at the time of her decease hereinafter mentioned, was seised in her demesne as of fee of and in divers messuages, lands, and tenements, with the appurtenances, hereafter mentioned to have been devised by her to the said Elizabeth Swinfew, by her then name and description of Elizabeth Coleman, the then wife of Thomas Coleman, since deceased, to wit, at, &c. in, &c. and being so seised she the said E. M. in her lifetime, to wit, on, &c. at, &c. duly made her last will and testament in writing, bearing date the day and year aforesaid, and thereby, amongst other things, gave, devised, and bequeathed unto the said plaintiff, for and during the time of the natural life of the said Elizabeth the now wife of the said James, then E. C. the wife of T. C. since deceased, a certain annuity of twenty pounds of lawful money of Great Britain, to be issuing and payable out of the said messuages, lands, and tenements, with the appurtenances, and to be paid to the said plaintiff by the said Elizabeth for and during the term of her natural life, by two half yearly payments, that is to say, on, &c. the first payment thereof to begin and be made upon such of the said feasts as should first happen after the decease of her the said E. M.; and also that the said E. M. did in and by her said last will and testament, give, devise, and bequeath the said messuages, lands, and tenements.

tenements, with the appurtenances, of her the said E. M. by the name and description of all her real estate lying and being at, &c. in, &c. unto the said Elizabeth, the now wife of the said James, by her then name of Elizabeth, wife of Thomas Coleman, and her assigns, to hold the same for the term of her natural life, she and they paying thereout unto the said defendant the yearly sum of twenty pounds of lawful money, by two half-yearly payments, that is to say, on, &c. the first payment thereof to begin and be made upon such of the said feasts as should first and next happen after her the said E. M.'s decease; and the said E. M. then and there nominated and appointed the said Elizabeth, the now wife of the said James, then wife of the said T. C. since deceased, sole executrix of the said will, as by the said will, reference being thereunto had, will, amongst other things, more fully appear: And the said plaintiff in fact says, that afterwards, to wit, on, &c. the said E. M. died so seised as aforesaid, without altering or revoking her said will, after whose death, and after the death of the said T. C. deceased, to wit, on, &c. the said Elizabeth, the now wife of the said James, then widow of the said T. C. her late husband, then lately deceased, the said executrix named in the said last will and testament of the said E. M. deceased, duly proved the said will and took upon herself the burthen of the execution thereof, and assented to the aforesaid devises and bequests respectively, to wit, at, &c. by virtue whereof the said Elizabeth, the now wife of the said James, then widow of the said T. C. afterwards, to wit, on, &c. at, &c. became and was seised in her demesne as of freehold, that is to say, for and during the term of her natural life of and in the said messuages, lands, and tenements, with the appurtenances, so devised and taken as aforesaid, and out of which the said annuity, so devised and bequeathed to the said plaintiff, was to issue and be paid as aforesaid; and the said plaintiff also then and there became entitled to the said annuity so devised to him as aforesaid: And the said J. M. in fact further says, that she the said Elizabeth, the now wife of the said James, then widow of the said T. C. deceased, being so seised as aforesaid, and the said plaintiff being so entitled to the said annuity as aforesaid, afterwards, to wit, on, &c. at, &c. took to husband and intermarried with him the said James, and thereupon the said James and Elizabeth his wife, late E. C. became and were and still are seised in right of the said Elizabeth in their demesne as of freehold, that is to say, for and during the term of the natural life of her the said Elizabeth, of and in the said messuages, lands, and tenements, with the appurtenances, so devised to her as aforesaid, and out of which the said annuity, so bequeathed and devised to the said plaintiff, was to issue and be paid as aforesaid, to wit, at, &c.: And the said J. M. in fact further says, that after the said James and Elizabeth his wife, late E. C. became and were so seised in right of the said Elizabeth of and in the said messuages, lands, and tenements, with the appurtenances, so devised to her the said E. C. as aforesaid, and out of which the aforesaid annuity, devised to the said plaintiff as aforesaid,

DEBT ON INDENTURE.

said, was to issue and be paid as aforesaid, they the said James and Elizabeth his wife continued so seised until and at the time of the exhibiting of the bill of the said plaintiff, and during all that time were perners and in the receipt and perception of the rents, issues, and profits thereof, and had received sufficient to pay, satisfy, and discharge the aforesaid annuity or yearly sum of twenty pounds so devised and bequeathed to the said J. M. as aforesaid, and payable to him from the said James and Elizabeth his wife, in right of the said Elizabeth as aforesaid; but the said plaintiff in fact further saith, that afterwards, to wit, on, &c. being the feast of, &c. in that year, twenty-four pounds eighteen shillings and five pence of the said annuity of twenty pounds of lawful, &c. for one year and the half of another year ending on that day in the year last aforesaid, five pounds one shilling and sevenpence, on account of the said annuity, making together thirty pounds of the said annuity for and during the said one year and the half of another year, having been paid and satisfied to the said J. M. and which sum of five pounds one shilling and sevenpence the said J. M. hereby acknowledges to have received of and from the said James and Elizabeth his wife, in the said one year and the half of another year, became due and payable from the said James and Elizabeth his wife, as such perners of the profits of the aforesaid devised premises, with the appurtenances, to him the said plaintiff, and which said sum of twenty-four pounds eighteen shillings and fivepence still are in arrear and unpaid to him the said plaintiff, to wit, at, &c.; whereby an action hath accrued to the said plaintiff to demand and have of and from the said James and Elizabeth his wife the said sum of twenty-four pounds eighteen shillings and fivepence of lawful money of Great Britain; yet, &c. &c. [Common conclusion in debt.]

Drawn by MR. CROMPTON.

Declaration for
the arrears of an
annuity, &c. &c.

SURRY, to wit. Robert Middleton complains of James Forth, being, &c. in a plea that he render to him the said R. thirty-seven pounds ten shillings of lawful, &c. which he the said J. owes to and unjustly detains from him; for that whereas before and at the time of making the said indenture hereafter mentioned, one J. B. deceased, was seised in his demesne as of fee of and in the several premises thereby granted and conveyed, with the appurtenances, and being so thereof seised by a certain indenture made the, &c. between the said John B. of the first part, one R. J. and Mary, one of the daughters of the said R. J. of the second part, one W. S. and M. B. of the third part, and one J. M. of the fourth part (one part of which said indenture, sealed with the respective seals of the said J. B. R. J. M. J. W. S. and J. M. the said Robert now brings into court here, the date whereof is the day and year aforesaid); reciting that whereas a marriage was intended to be had and solemnized between the said J. B. and M. J. he the said J. B. in consideration of the said intended marriage, and in consideration of other the premises in the said indenture in that respect mentioned,

did grant, bargain, sell, alien, remise, confirm, and for ever quit claim unto the said W. S. and M. B. all that messuage, lands, &c. all which said messuage, lands, &c. lie together, or near together, and are situate, lying, and being in the parish of, &c. and were then in the tenure or occupation of the said J. B. his assigns, or undertenants, and abutting on, &c. &c. of land belonging to the said J. B. and bounded out by posts, &c. and then in the occupation of the said J. B. or his assigns, and also four ponds in the occupation of the said J. B. or his assigns, lying and being in the said lands in the occupation of the said J. B. and all outhouses, &c. whatsoever to the said messuage or tenement, lands, &c. belonging or appertaining, and all the estate, right, title, interest, use, trust, inheritance, property, claim, and demand of him the said J. B. his heirs, or assigns, of, in, or to the said premises, and all charters, deeds, evidences, and writings touching or concerning the said premises or any part thereof, to hold the said messuage, &c. with the appurtenances unto the said W. S. and M. B. their heirs, and assigns for ever, to and for the several uses, intents, and purposes in the said indenture hereinafter mentioned concerning the same, that is to say, to the use and behoof of the said J. B. and his heirs, until the said intended marriage should be had and solemnized, and from and after the solemnization of the said intended marriage to the use and behoof of the said J. B. and his assigns, for and during the term of his natural life without impeachment of waste, and from and after his decease, in case the said intended marriage should take effect, and the said M. J. should survive and outlive the said J. B. then to this intent and purpose, that it should and might be lawful to and for the said M. J. the intended wife of the said J. B. and her assigns, to have, receive, and take out of the rents, issues, and profits of the said messuage or tenement, farm lands, and premises, one annuity, yearly rent, or sum of fifty pounds of lawful, &c. clear of all deductions, taxes, or other payments whatsoever, for and during the term of her natural life, to be paid by quarterly payments, on the four most usual feasts or days of payment in the year, to wit, the feast of, &c. by even and equal portions, the first payment to begin and be made on such of the said ten-days as should next happen after the decease of the said J. B. and if it should happen that the said annuity or yearly rent of fifty pounds or any part thereof should at any time be behind or unpaid by the space of ten days over on which as aforesaid the same ought to be paid, then from time to time as often as the same should be so in arrear, it shall and might be lawful to and for the said M. J. and her assigns, into and upon the said messuage, lands, and premises, or into any part or parcel thereof to enter and distrain, and the distress and distresses there found and made to impound and keep until the said annuity or yearly rent, with all arrears, charges, and damages, should be lawfully paid and satisfied, as by the said indenture, reference being thereto had, will, amongst other things, more fully and at large appear: And the said Robert in first says, that after the making of the said indenture, the said intended marriage

between

between the said J. B. and the said M. J. took effect, and was duly had and solemnized; and that the said J. B. afterwards died seised (that is to say, in his demesne as of fee) of and in the said several premises, with the appurtenances so charged as aforesaid, leaving issue one daughter, his only child, to wit, at, &c.; and that the said M. J. there survived him the said J. B.; and that upon the death of the said J. B. the said several premises, with the appurtenances charged as aforesaid, became and was vested in the said A. B. daughter and heiress of the said J. B. whereby she became and was seised of the said several premises, with the appurtenances so charged as aforesaid, in her demesne as of fee, and being so seised, she intermarried and took to husband the said James, who thereupon in right of his said wife became and was, and from thence hitherto hath been and still is tenant of the demesne, and in the reception of the rents and profits of the said several premises so charged as aforesaid, and during all that time until the death of the said Mary, the daughter of his said wife, was liable to the payment of the said yearly rent or sum of fifty pounds so charged upon the said premises as aforesaid, to wit, at, &c.: And the said Robert in fact further says, that afterwards, and whilst the said James was such tenant of the demesne, and in the reception of the rents and profits of the said several premises, with the appurtenances so charged as aforesaid, and liable to the payment of the said yearly rent or sum of fifty pounds as aforesaid, to wit, on, &c. the said Mary intermarried with and took to husband the said Robert; whereby the said Robert and Mary, in right of the said Mary, then and there became and was seised in their demesne as of freehold, that is to say, for the term of the natural life of the said Mary, of and in the said yearly rent or sum of fifty pounds hereinbefore mentioned, and so remained and continued from thence until and upon the sixth day of, &c. when the said Mary died: And the said Robert in fact further says, that in the lifetime of the said Mary his wife, and whilst they the said Robert and Mary were so seised of the said yearly rent or sum of fifty pounds, and whilst the said James was tenant of the demesne and in reception of the rents and profits of the said several premises, with the appurtenances, so charged as aforesaid, to wit, on, &c. a large sum of money, to wit, the sum of thirty-seven pounds of the said yearly rent or sum of fifty pounds, for three quarters of a year, ended on the day and year last mentioned, became due and payable from the said James to the said Robert, under and by virtue of the said indenture hereinbefore mentioned, to wit, at, &c. of all which said several premises the said James afterwards, to wit, on, &c. had notice: And the said sum of thirty-seven pounds and every part thereof still remains due and in arrear from the said James to the said Robert; whereby an action hath accrued to the said Robert to demand and have of and from the said James the said thirty-seven pounds above demanded.

Plea in abatement.

And the said James, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and prays judgment of the bill
aforesaid

aforesaid, because he says, that the said J. B. at the time of his death left issue him surviving two daughters, namely, A. B. the now wife of him the said James, and A. C. the now wife of G. K. of, &c. in, &c. and that upon the death of the said J. B. the premises, charged with the said annuity or rent in the said declaration mentioned, descended and came to the said Mary, the now wife of him the said James, and to the said A. C. the now wife of the said G. K. as daughters and coheirs of the said J. B. and which said A. C. the now wife of the said G. K. is still alive; and this the said James is ready to verify; wherefore inasmuch as the said A. C. the now wife of the said G. K. is not named in the said bill of the said Robert, the said James prays judgment of the said bill, and that the same may be quashed, &c.

that the premises descended to defendant's wife and A. C. &c. co-heiresses, who is not named.

ON LEASES.

LONDON, to wit. James Lewis Desormeaux complains of Leonard Lefevre, being, &c. of a plea that he render to the said James thirty-seven pounds of lawful money of Great Britain, which he owes to and unjustly detains from him; for that whereas by a certain indenture of lease made the second day of, &c. to wit, at London aforesaid, in the parish of, &c.; (the counterpart of which said indenture of lease, sealed with the seal of the said Leonard, the said James now brings into court here, the date whereof is the day and year aforesaid) between the said James, by his name and addition therein mentioned, of the one part, and the said Leonard, by his name and addition therein also mentioned, of the other part; the said James for the considerations therein mentioned, did demise, lease, and to farm let unto the said Leonard, all that messuage or tenement called or known by the name of, &c. with the yard, garden, and appurtenances thereto belonging, situate, lying, and being in, &c. in the parish of, &c. and then late in the tenure or occupation of S. S. and also all that piece of land near Green-gate, in Plaistow aforesaid, containing three quarters of an acre, then late in the possession of M. W. and then in the occupation of R. R. together with all the ways, &c. &c. and appurtenances whatsoever to the said messuage or tenement, land, or premises belonging or in any wise appertaining; to have and to hold the said messuage or tenement, land, and all and singular other the premises thereby demised, with their and every of their appurtenances unto the said Leonard, his executors, administrators, and assigns, from the twenty-fifth day of March then last past, for and during and unto the full end and term of sixteen years from then next ensuing, and fully to be complete and ended, holding and paying therefore yearly and every year during the said term unto the said James, his executors, administrators, or assigns, the rent or sum of twenty-five pounds of lawful money of Great Britain, on the four most usual feasts, or quarter days of payment within the year, that is to say, &c. &c. as by the said indenture of

Declaration in debt for a year and a half's rent.

ad Count, for
so long a time
as they the said
James and Leo-
nard should
please.

of lease, reference being thereto had, will, amongst other things, more fully and at large appear; by virtue of which said demise, he the said Leonard afterwards, to wit, on, &c. entered into all and singular the said demised premises, with the appurtenances, and became and was and still is thereof possessed for the said term so to him thereof demised as aforesaid: And the said James in fact says, that twenty-five pounds of the aforesaid yearly rent or sum of twenty-five pounds for one year of the said term, ending and ended on, &c. to wit, at, &c. became due and owing from the said Leonard to the said James, and still are in arrear and unpaid to him the said James, to wit, at, &c. whereby an action hath accrued to the said James to demand and have of and from the said Leonard the said sum of twenty-five pounds, parcel of the said sum of thirty-seven pounds above demanded: And whereas the said James heretofore, to wit, on, &c. at, &c. demised to the said Leonard a certain barn or yard, with the appurtenances, situate, standing, and being at, &c. in, &c. to hold the same, with the appurtenances, unto him the said Leonard for *and during and unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, and so from year to year for so long time as it should please them the said James and Leonard,* at and under a certain yearly rent, to wit, the yearly rent or sum of six pounds, to be therefore paid by the said Leonard to the said James by four equal quarterly payments, on the days and times following, to wit, the twenty-fifth day of, &c. &c. in each and every year of such demise, by virtue of which said last-mentioned demise, he the said Leonard after the making thereof to wit, on, &c. entered the said last-mentioned demised premises, with the appurtenances, and became and was and still is thereof possessed under and by virtue of the aforesaid demise: And the said James in fact says, that six pounds of the said last-mentioned rent or sum of six pounds for one year of the said last-mentioned demise, ending and ended on the twenty-fifth day of, &c. to wit, at, &c. became due and owing from the said Leonard to the said James, and still are in arrear and unpaid to him the said James, to wit, at, &c. whereby an action hath, &c. &c.: And whereas, &c. &c. [this Count exactly like the last, only omitting what is in Italics, and inserting in lieu thereof what is in the margin]; yet, &c. &c.

V. LAWES.

Hilary Term, 20. Geo. III:

ad Plea, nil
debit.

ad Plea, that
plaintiff had no-
thing in the pre-
mises whereof
he could make
a demise.

And the said Leonard, by J. W. his attorney, comes and defends the wrong and injury, when, &c. and saith, that he doth not owe to the said James the said thirty-seven pounds above demanded or any part thereof, in manner and form as by the said declaration is above supposed, and of this he puts himself upon the country, &c.: And for further plea in this behalf as to the sum of six pounds in the second Count of the said declaration mentioned, the said Leonard, by leave of, &c. according, &c. says *actio*

non;

non; because he says, that the said James, at the time of the said supposed demise in that Count mentioned to have been made, had nothing in the tenements aforesaid so as above in that Count supposed to have been demised, whereof he could make that demise; and this, &c.; wherefore, &c. if, &c.: And for further plea in this behalf as to the said sum of six pounds in the second Count of the said declaration mentioned, the said Leonard, by like leave of, &c. says *assio non*; because he says, that the said James did not demise to the said Leonard the said tenements, with the appurtenances, in the said second Count in the said declaration mentioned to have been demised, in manner and form as the said James hath in and by the same Count in the said declaration in that behalf above alledged; and of this the said Leonard puts himself upon the country, &c.: And for further plea in this behalf as to the said six pounds in the last Count of the said declaration mentioned, the said Leonard, by like leave of, &c. says *assio non*; because he says, that the said James, at the time of the said supposed demise in the said Count mentioned to have been made, had nothing in the tenement aforesaid so as above in that Count supposed to have been demised, whereof he could make that demise; and this, &c.; wherefore, &c. if, &c.: And for further plea in this behalf as to the said sum of six pounds in the said last Count of the said declaration mentioned, the said Leonard, by like leave of, &c. says *assio non*; because he says, that the said Leonard did not demise to the said Leonard the said tenements, with the appurtenances, in the said last Count of the said declaration mentioned to have been demised, in manner and form as the said James hath in and by the said Count of the said declaration in that behalf alledged; and of this he the said Leonard puts himself upon the country, &c.: And for further plea in this behalf, the said Leonard, by like leave of, &c. says *assio non*; because he says, that the said James, at the time of the exhibiting of the bill of the said James in this behalf, and before that time, was and still is indebted to the said Leonard in more money than the said Leonard owes to the said James on the said several demises in the said declaration mentioned, that is to say, in the sum of forty pounds of lawful money of Great Britain, for the use, occupation, and enjoyment of a certain barn and yard, and divers other tenements of the said Leonard, with the appurtenances, situate, standing, and being at, &c. in, &c. by the said James, at his special instance and request, by the permission of the said Leonard for a long space of time, to wit, for the space of five years before that time used, occupied, had, and enjoyed, and also in the further sum of forty pounds of like lawful money, for so much money before that time had and received by the said James to and for the use of the said Leonard; and also in the further sum of forty pounds of like lawful money, for so much money before that time paid, laid out, and expended by the said Leonard to and for the use of the said James, at his like special instance and request, which said several sums of money still remain, and

3d Plea, that plaintiff did not demise.

4th Plea same as second.

5th Plea same as third.

6th, a plea of set-off.

* For use and occupation.

are wholly due, owing, and unpaid from the said James to the said Leonard, to wit, at, &c. so much of which said several sums of money so due and owing to the said Leonard as aforesaid, as will be sufficient to satisfy the said James the money supposed to be due to the said James for the causes of action in the said declaration mentioned, the said Leonard will deduct and set-off according to the form of the statute in such case made and provided ; and this, &c. ; wherefore, &c. if, &c.

G. S. HOLROYD.

Replication and
demurrer to the
last plea.

And as to the said plea of the said Leonard by him first above pleaded in bar, and whereof the said Leonard hath above put himself upon the country, he the said James doth the like, &c. ; and as to the said plea of the said Leonard by him secondly above pleaded in bar as to the sum of six pounds in the second Count of the said declaration mentioned, he the said James says, that the said plea secondly above pleaded and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said James from having and maintaining his said action against the said Leonard as to the said sum of six pounds in the introduction to that plea mentioned ; to which said plea, in manner and form as the same is above pleaded and set forth, he the said James is not under any necessity, nor in anywise bound by the law of the land to answer ; and this he is ready to verify ; wherefore for want of a sufficient plea in this behalf the said James prays judgment and his said debt in the introduction to that plea mentioned, together with his damage by him sustained on occasion of the detention thereof, to be adjudged to him ; and as to the said plea of the said Leonard by him thirdly above pleaded in bar to the sum of six pounds in the second Count of the said declaration mentioned, and whereof the said Leonard hath put himself upon the country, he the said James doth the like, &c. ; and as to the said plea of the said Leonard by him fourthly above pleaded in bar as to the said six pounds in the last Count of the said declaration mentioned, he the said James says, that the said plea so fourthly above pleaded and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said James from having and maintaining his said action against him the said James, as to the said sum of six pounds in the introduction to that plea mentioned, to which plea, in manner and form as the same is above pleaded and set forth, he the said James is not under any necessity, nor in anywise bound by the law of the land to answer ; and this, &c. ; wherefore for want of, &c. : And as to the said plea of the said Leonard by him fifthly above pleaded in bar as to the sum of six pounds in the last Count of the said declaration mentioned, and whereof the said Leonard hath put himself upon the country, he the said James doth the like : And as to the said plea of the said Leonard by him lastly above pleaded in bar, he the said James says, that he ought not to be barred from having and maintaining his aforesaid action thereof against him ; because he says, that he the said James
was

was not nor is indebted to the said Leonard in manner and form as the said Leonard hath above in his said last plea in that behalf alleged; and this he the said James prays may be enquired of by the country.

V. LAWES.

Trinity Term, 25. Geo. III.

LONDON, to wit. John Bond complains of Joseph Munday, being in the custody of the marshal of the marshalsea of our sovereign lord the king, before the king himself, of a plea that he render to the said John the sum of thirty-six pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from him; for that whereas by a certain indenture of lease made at London aforesaid, to wit, in the parish of St. Mary-le-Bow, in the ward of Cheap, on the first day of November, in the year of Our Lord 1780, between the said John and Sarah his wife (by the names and additions of John Bond, of Crutched Friars, London, merchant, and Sarah his wife) of the one part, and the said Joseph (by the name and addition of Joseph Munday, in the parish of Lambeth, in the county of Surry, wharfinger) of the other part (one part of which said indenture of lease, sealed with the seal of the said Joseph, the said John brings here into court, bearing date the same day and year aforesaid); they the said John and Sarah his wife, for the considerations therein mentioned, did demise, lease, and to farm let unto the said Joseph all that piece or parcel of ground called Thorp Field, containing by estimation eight acres and eight perches, were the same more or less, then divided into two parts by the foot-path leading from South Lambeth to Clapham, and abutting towards north on a cross lane leading from Stockwell Common into the road from London to Kingston, on the west towards the said Kingston road, only east on a back lane leading from Stockwell Common to Clapham, and on the south on lands of sir Joseph Mawbey, bart. and all ways, paths, passages, waters, water-courses, hedges, ditches, fences, and appurtenances to the said piece of ground belonging, and wherewith, or with any part thereof held or enjoyed, which said piece of ground and premises are situate, lying, and being in the parish of St. Mary, Lambeth, in the county of Surry aforesaid, and were then late in the tenure or occupation of John Barren-
 and then were in the tenure or occupation of the said Jo-
 (except as therein is excepted), to have and to hold the said
 or parcel of ground and premises thereby demised, with the
 appurtenances, unto the said Joseph, his executors, administrators,
 assigns, from the feast-day of St. Michael the Archangel then
 past, for and during, and unto the full end and term of twen-
 ty years from thence next ensuing, and fully to be complete
 ended, yielding and paying therefore yearly and every year,
 the said term of twenty-one years, unto the said
 and his assigns, and after his decease unto the said Sarah his
 wife

Declaration in
 debt for rent of
 premises demis-
 ed by plaintiff
 to the defend-
 ant.

wife and her assigns, during all such part of the said term as they the said John and Sarah his wife, or the survivor of them, should live, and to such other person or persons as should be entitled to the freehold and inheritance of the said premises for the time being, after the respective deaths of the said John Bond and Sarah his wife, the yearly rent or sum of twenty-four pounds of lawful money of Great Britain, free and clear of and from all and all manner of taxes, deductions, and abatements whatsoever (the tax commonly called the land tax only deducted) at or upon the four most usual feasts or days of payment of rent in the year, that is to say, the twenty-fifth day of December, the twenty-fifth day of March, the twenty-fourth day of June, and the twenty-ninth day of September in every year, by even and equal portions, the first payment thereof to begin and be made on the twenty-fifth day of December then next ensuing, as in and by the said indenture of lease (relation being thereunto had) may, amongst other things, more fully and at large appear; by virtue of which said indenture of lease, and the demise thereby made, the said Joseph afterwards, to wit, on the same day and year aforesaid, entered into the said piece or parcel of ground and premises thereby demised, with the appurtenances, and was thereof possessed, and hath from thence hitherto held and enjoyed, and still continues to hold and enjoy the same: And the said John in fact further saith, that after the making of the said indenture, to wit, on the twenty-fifth day of March, in the year of Our Lord 1785, a large sum of money, to wit, the sum of thirty-six pounds of the said rent for one year and the half of another year of the said term then elapsed, became due and owing, and from thence hitherto hath been, and still is in arrear and unpaid from the said Joseph to the said John, to wit, at London aforesaid, in the parish and ward aforesaid, whereby an action hath accrued to the said John to demand and have of and from the said Joseph the said sum of thirty-six pounds above demanded; yet the said Joseph, although often requested, &c. hath not as yet paid the said sum of thirty-six pounds above demanded or any part thereof to the said John, but to pay the same or any part thereof to the said John, he the said Joseph hath hitherto wholly refused, and still doth refuse, to the damage of the said John of twenty pounds; and therefore he brings suit, &c.

Drawn by Mr. TIDD.

Easter Term, 20. Geo. III.

Plea to an action of debt for rent, at the suit of executors of lessors against lessee, that defendant, in the

CRESWELL

at suit of

HUND, EXECUTRIX.

because he saith, that though true it is that by the said indenture

in the said declaration mentioned, the said J. H. in his lifetime did

AND the said Silvanus, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and saith *actio non*; because he saith, that though true it is that by the said indenture in the said declaration mentioned, the said J. H. in his lifetime did

lifetime of plaintiff's testators, assigned over the premises to a third person, who entered, and that plaintiff's testator accepted rent from such assignee. Vide Str, p. 276. 3. Co. 24-6. 1. Saund. 240. 2. Saund. 305.

demise

demise the said several premises, with the appurtenances in the said declaration mentioned (except as aforesaid) to the said Silvanus; and that he the said Silvanus did, by virtue of the said demise, enter into the same, and become possessed thereof, as the said Bridget has in the said declaration above alledged: Yet the said Silvanus in fact saith, that after his entry into the said premises, with the appurtenances, and whilst he was possessed thereof under and by virtue of the said demise, that is to say, in the lifetime of the said J. H. to wit, on, &c. at, &c. he the said Silvanus, by a certain *indenture of assignment* then and there made between him the said Silvanus of the one part, and one W. C. of, &c. of the other part, for the considerations therein mentioned, assigned, transferred, and set over all the right, title, interest, term of years then to come and unexpired, interest, property, claim and demand whatsoever of him the said Silvanus, of, in, and to the said several demised premises, with the appurtenances (except as aforesaid), to the said W. C.; by virtue of which said assignment the said W. C. afterwards, to wit, on, &c. at, &c. entered into the said premises, and became and was possessed thereof for the residue of the said term then to come therein and unexpired, whereof the said J. H. in his lifetime, that is to say, on, &c. had notice from the said Silvanus: And the said Silvanus further saith, that the said J. H. in his lifetime, after the entry of the said W. C. into the aforesaid demised premises, with the appurtenances, under and by virtue of the aforesaid assignment thereof, to wit, on, &c. did accept and receive of the said W. C. one hundred and twelve pounds ten shillings of the rent aforesaid, in form aforesaid reserved, and on that day in the year last aforesaid, according to the reservation aforesaid, payable; and this, &c.; wherefore, &c. if, &c.

Qu. Whether by indenture of assignment or deed-pole.

T. WALKER.

It might be safer, perhaps, to state the acceptance of rent from the assignee, as tenant of the land.

And as to the said plea of the said Silvanus by him above pleaded in bar, the said Bridget says, that for any thing in the said plea above alledged, she ought not to be *precludi non*; because protesting that there never was any indenture of assignment of the said demised premises between the said Silvanus and W. C. in manner and form as in and the said plea is above alledged; protesting also that the said W. C. never was possessed of the said demised premises, in manner and form as in and by the said plea is above alledged; for replication in this behalf the said Bridget says, that the said J. H. in his lifetime did not accept and receive and from the said W. C. the said *one hundred and twelve pounds ten shillings (a)* of the rent aforesaid, in manner and form as in and by the said plea is above alledged; and this the said Bridget prays may be enquired of by the country, &c.

Replication protesting that there was any assignment, and that testator did not accept rent from assignee.

NASH GROSE.

Qu. If this replication is not bad for making the quantum of the rent alledged by the plea to have been received, the

main point of the issue, and thereby rendering the whole immaterial.

DEBT ON RECORDS.

RECOGNIZANCES.

On recognizance of bail in error in the exchequer chamber there were four bail bound in the recognizance, two at one time and place, and two at another time and place.

then and still being one of the justices of the court of our said lord the king, before the king himself.

MIDDLESEX. The reverend David Davies, clerk, complains of George Birch and James Tite, being, &c. in a plea that they render to him eight hundred and thirty pounds of lawful money of Great Britain, which they owe to and unjustly detain from him; for that whereas heretofore, to wit, on, &c. before *Edward Willes, esquire, then and still being one of the justices of the court of our lord the king, before the king himself here, at his chambers situate in Serjeant's-inn, Chancery-lane, London, came one William Burden, and one David Finlay, in their own proper persons, and by the several names and descriptions of, &c. according to the form of the statute in such case made and provided, acknowledged themselves, and each of them separately did acknowledge himself to owe to the said D. D. the sum of four hundred and fifteen pounds of lawful, &c. to be paid to the said D. D. his executors, or assigns, and unless they should so do, they the said W. B. and D. F. did grant and agree, and each of them for himself did grant and agree that the said sum of four hundred and fifteen pounds of their and each of their lands and chattels should be made and levied to the use of the said D. D.: And afterwards, to wit, on, &c. before the said Edward Willes, so being such justice as aforesaid, at Westminster-hall, in the said county of Middlesex, came the said G. B. and J. T. in their own persons, and by the several names and descriptions of, &c. according to the form of the statute in such case made and provided, acknowledged themselves, and each of them did separately acknowledge himself, together with the above named W. B. and D. F. to owe to the said D. D. the said sum of four hundred and fifteen pounds of like lawful money, to be paid to the said D. D. his executors, or assigns, and unless they should so do, they the said G. B. and J. T. did grant and agree, and each of them for himself did grant and agree that the said sum of four hundred and fifteen pounds of their and each of their lands and chattels should be made and levied to the use of the said D. D. subject to and dependant nevertheless upon a certain condition to the said recognizance subscribed, and to the effect following; that whereas the said D. D. then lately in the said court of our said lord the king, before the king himself, at Westminster, by bill, and without the writ of our said lord the king, and by the judgment of the*

the same court recovered against R. C. esquire, two hundred and seven pounds ten shillings, for his damages which he had sustained, as well by occasion of the not performing certain promises and undertakings made by the said R. C. to the said D. D. as for his costs and charges by him about his suit in that behalf expended, whereof the said R. C. had been convicted, as appeared of record in the said court of our said lord the king, before the king himself, at Westminster; and that whereas the said R. C. had brought a writ of error upon the judgment aforesaid returnable before the justices of our said lord the king of the common bench, and the barons of the exchequer of the degree of the coif, in the exchequer chamber, on, &c. in the said twenty-second year of the reign of our said lord the king, if therefore the said R. C. should prosecute the said writ of error with effect, and also should satisfy and pay unto the said D. D. if the said judgment should be affirmed, or the said writ of error be discontinued in his default, or he should be non-suited therein, as well the damages aforesaid adjudged upon the said judgment, as also all such costs, charges, and damages as should be awarded to the said D. D. for the delaying of the execution of the judgment aforesaid by pretext of prosecuting the said writ of error, then that recognizance should be void and of none effect, or else should be and remain in full force and virtue, which said recognizance, together with the aforesaid condition thereof, was afterwards, to wit, on, &c. in Trinity term, in the twenty-second year of, &c. in due manner recorded in the said court of our said lord the king, before the king himself, the said court then and still being held at Westminster, in the said county of Middlesex, by the said E. W. esquire, as such justice as aforesaid, as by the record of the recognizance and condition thereof, remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, manifestly appears; And the said D. D. further says, that the said R. C. prosecuted the said writ of error in the said exchequer chamber at Westminster aforesaid, against the said D. D. but not with effect, for that such proceedings were thereupon had in the said exchequer chamber before the said justices of our lord the king of the common bench, and the barons of his exchequer of the degree of the coif, that afterwards, to wit, on, &c. the said judgment so recovered and obtained in the said court here as aforesaid, was by the consideration and judgment of the said court of exchequer chamber in all things affirmed to wit, at, &c.: And the said D. D. did then and there by the consideration of the said court recover against the said R. C. thirteen pounds ten shillings, which in and by the said court of exchequer chamber were then and there awarded to him at his request for his costs, charges, and damages for the delaying of execution of the said judgment so recovered and obtained here in the said court as aforesaid, by pretext of prosecuting the said writ of error, and thereupon the record and proceedings aforesaid of the said justices of the common bench and barons of the exchequer were by the said justices and barons in due manner remitted and

form of the statute in such case made and provided, for his damages, costs, and charges which he had expended by reason of delay of the execution of the aforesaid judgment, and by the prosecution of the writ of error aforesaid, as by the record and proceedings thereof duly remitted into said court of our said lord now king, before, &c. at Westminster aforesaid, and now then remaining in full force and effect, more fully appears; and said cognizance still remains in full force, and said M. B. hath not satisfied said H. R. said sixty-seven pounds, his aforesaid damages so recovered in form aforesaid or any part thereof, whereby action hath accrued to said H. R. to demand and have of said J. said one hundred and thirty-five pounds above demanded; yet, & pledges, &c.

Drawn by MR. WARREN.

Plea to an action in debt on recognizance of bail, that principal became bankrupt, and obtained his certificate.

DODWORTH } **AND** the said William, by A. B. his attorney
at suit of } comes and defends the wrong and injury, which
EDWARDS. } &c. and saith that the said Thomas ought not
 have or maintain his aforesaid action thereof against him the said
 William; because he saith, that the said T. D. in the declaration
 aforesaid mentioned, after the recovery of the said judgment
 the said declaration mentioned, and before the exhibiting the
 of the said Thomas against the said William, and before any
process ad satisfaciendum sued forth upon the judgment aforesaid
 the suit of the said Thomas, on the judgment aforesaid against the
 said T. D. and returned filed of record in this court here, and
 after the fourteenth day of, &c. mentioned in a certain act of parliament
 made at Westminster, in the county of Middlesex, in the
 fifth year of the reign of our sovereign lord George the Second
 late king of Great Britain, &c. intitled, “An Act to prevent
 the committing of Frauds by Bankrupts,” to wit, on, &c. that
 the said T. D. became a bankrupt within the true intent and meaning
 of the said act of parliament above particularly mentioned, and
 of the several other statutes made and then and now in force concerning
 bankrupts, to wit, at, &c.; and that the said T. D. so becoming
 a bankrupt as aforesaid, did afterwards, and before that any
 such writ of *capias ad satisfaciendum* was sued forth on the judgment
 aforesaid, at the suit of the said Thomas against the said
 T. D. upon the judgment aforesaid, and returned and filed of record
 in the said court here, and before the day of exhibiting of the
 said bill of the said Thomas against him the said William in the
 behalf, to wit, on, &c. at, &c. duly obtained his certificate
 and the same was afterwards and before the suing forth, returning
 and filing of record of any such writ of *capias ad satisfaciendum*
 on the judgment aforesaid against the said T. D. and before the
 day of exhibiting of, &c. against the said William in this behalf
 to wit, on, &c. duly allowed and confirmed as in and by the aforesaid
 act of parliament above particularly mentioned is in such case
 directed, according to the tenor, true intent and meaning of the
 said act of parliament, to wit, at Westminster aforesaid; at
 this, &c.; wherefore, &c. and that the said Thomas may be
 barred

recovered against M. B. the sum of sixty-seven pounds for his damages which he had sustained, as well by reason of a certain plea of trespass on the case to the said H. R. against the said M. B. as well for his costs and charges by him about his suit in that behalf expended, whereof the said M. B. had been convicted, as it appeared on record in the said court of our said lord the king, before the king himself: And whereas the said M. B. had brought a writ of error upon the judgment aforesaid, returnable before the justices of the C. B. and the barons of the exchequer of the degree of the coif, in the exchequer chamber, on, &c. in the twentieth year of the reign of our said sovereign lord the then and now king, if thereof said M. B. should prosecute the said writ of error with effect, and also should satisfy and pay to said H. R. (if the said judgment should be affirmed) the damages aforesaid, and also all such costs and damages which should be awarded to said H. R. for the delay of his execution upon the judgment aforesaid, by pretext of presenting the said writ of error, then the said recognizance should be void and of no effect, or else should remain in full force and virtue, which said recognizance the said sir M. F. knight, then and still one of the justices of our lord the now king, assigned to hold pleas in the said court of, &c. afterwards, to wit, on Friday next after eight days of St. Hilary, in the twenty-eighth year, &c. delivered into the said court of, &c. at Westminster aforesaid, to be recorded, and the same was then and there recorded in the said court as of the said Hilary term, in the twenty-eighth year aforesaid, as by said recognizance remaining of record in said court of, &c. at Westminster aforesaid, more fully appears: And the said H. R. further says, that by virtue of said writ of error, the record and process of the judgment mentioned in the said condition of said recognizance afterwards, to wit, in Hilary term, in the twenty-eighth year aforesaid, was by sir W. L. knight, then and still chief justice of the court of our said lord the now king, assigned to hold pleas in the said court of our said lord the king, before the king himself, certified out of said court of our said lord the king, before the king himself, into the exchequer chamber of our lord the now king, near his said majesty's exchequer at Westminster, before his majesty's justices of the common bench and barons of his exchequer of the degree of the coif, according to the form and effect of the statute in such case made and provided, being the same exchequer chamber mentioned in said condition, and such proceedings were thereupon had in said exchequer chamber before the same justices of the C. B. and barons of his said exchequer of the degree of the coif, that afterwards, to wit, on, &c. in Michaelmas term, in the twenty-ninth year of the reign of our said lord the now king, the said judgment was by said justices and barons in said exchequer chamber in all things affirmed, and said H. R. then and there by the consideration of said justices and barons, recovered against said M. B. eleven pounds eleven shillings, which were then and there adjudged unto said H. R. and at his request by said court of said exchequer chamber, according to the form

form of the statute in such case made and provided, for his damages, costs, and charges which he had expended by reason of the delay of the execution of the aforesaid judgment, and by the prosecution of the writ of error aforesaid, as by the record and proceedings thereof duly remitted into said court of our said lord the now king, before, &c. at Westminster aforesaid, and now there remaining in full force and effect, more fully appears; and said recognizance still remains in full force, and said M. B. hath not yet satisfied said H. R. said sixty-seven pounds, his aforesaid damages so recovered in form aforesaid or any part thereof, whereby an action hath accrued to said H. R. to demand and have of said J. F. said one hundred and thirty-five pounds above demanded; yet, &c.; pledges, &c.

Drawn by MR. WARREN.

Plea to an action
in debt on re-
cognizance of
bail, that prin-
cipal became
bankrupt, and
obtained his cer-
tificate.

DODWORTH } **AND** the said William, by A. B. his attorney,
at suit of } comes and defends the wrong and injury, when,
EDWARDS. } &c. and saith that the said Thomas ought not to
have or maintain his aforesaid action thereof against him the said
William; because he saith, that the said T. D. in the declaration
aforesaid mentioned, after the recovery of the said judgment in
the said declaration mentioned, and before the exhibiting the bill
of the said Thomas against the said William, and before any *ca-
pias ad satisfaciendum* sued forth upon the judgment aforesaid at
the suit of the said Thomas, on the judgment aforesaid against the
said T. D. and returned filed of record in this court here, and
after the fourteenth day of, &c. mentioned in a certain act of par-
liament made at Westminster, in the county of Middlesex, in the
fifth year of the reign of our sovereign lord George the Second,
late king of Great Britain, &c. intituled, “ An Act to prevent
“ the committing of Frauds by Bankrupts,” to wit, on, &c. he
the said T. D. became a bankrupt within the true intent and mean-
ing of the said act of parliament above particularly mentioned, and
of the several other statutes made and then and now in force con-
cerning bankrupts, to wit, at, &c.; and that the said T. D. so be-
coming a bankrupt as aforesaid, did afterwards, and before that any
such writ of *capias ad satisfaciendum* was sued forth on the judg-
ment aforesaid, at the suit of the said Thomas against the said
T. D. upon the judgment aforesaid, and returned and filed of re-
cord in the said court here, and before the day of exhibiting of the
said bill of the said Thomas against him the said William in this
behalf, to wit, on, &c. at, &c. duly obtained his certificate,
and the same was afterwards and before the suing forth, returning,
and filing of record of any such writ of *capias ad satisfaciendum*
on the judgment aforesaid against the said T. D. and before the
day of exhibiting of, &c. against the said William in this behalf,
to wit, on, &c. duly allowed and confirmed as in and by the afore-
said act of parliament above particularly mentioned is in such cases
directed, according to the tenor, true intent and meaning of the
said act of parliament, to wit, at Westminster aforesaid; and
this, &c.; wherefore, &c. and that the said Thomas may be
barred

from having and maintaining his aforesaid action thereof
against him the said William.

V. LAWES.

Hilary Term, 23. Geo. III.

MIDDLESEX, to wit. John A. a debtor of our sove-
ign lord the king, comes before the barons of the exchequer on
the day of in this same term, by A. B. his attorney, and
complaints by bill against William Smith present here in court the
day, in a plea that he render to him said plaintiff thirty
pounds ten shillings of lawful, &c. which he owes to and unjust-
retains from him, &c.; for that whereas the said plaintiff here-
fore, to wit, in Michaelmas term, in the twenty-third year of
the reign of our lord the now king, before the king himself (the
court then and still being held at Westminster, in the county
of Middlesex aforesaid) by bill, and by the consideration of the
court recovered against one William Last thirty pounds ten
shillings, which in and by the said court were then and there ad-
judged to the said plaintiff for his damages which he had sustained
on occasion of the not performing of certain promises and
obligations theretofore made by said William Last to the said
plaintiff as for his costs and charges in that behalf expended, where-
by the said William Last was convicted, as by the record and
findings thereof remaining in the said court of our said lord
king, before the king himself at Westminster aforesaid, in full
and effect more fully appears: And whereas whilst the said
cause depending, to wit, on, &c. at, &c. the said defendant
came before A. B. gentleman, then being one of the commission-
ers appointed by the justices of the court of our said lord the
king, in the court of our said lord the king, before the king
himself, according to the form of the statute in such case made
and provided, to take bail in the said county of N. and then and
therein his own proper person became pledge and bail for the said
defendant in the said action or suit, that is to say, in manner and
the following, that is to say, that if it should happen that the
said W. L. should be convicted at the suit of the said plaintiff in
the aforesaid, then the said defendant consented that all such
damages which should be adjudged to the said plaintiff in that be-
half should be made of his the said defendant's lands and chat-
tels levied to the use of the said plaintiff if it should happen
that the said W. L. should not pay to the said plaintiff the said da-
mages; and he render himself to the marshal of the marshalsea of our
said lord the king, before the king himself, in execution of such
damages; which said recognizance was afterwards and before
the commencement of this suit duly transmitted by the said A. B.
then and still being one of the justices of our lord the
king, before the king himself, at his chambers in Serjeant's-
chambers-lane, London, and by him the said justice after-
wards, in the twenty-second year of the reign
of our said lord the king, produced in the said court of our said
lord

Declaration in
debt in the ex-
chequer on re-
cognizance of
bail (by bill) ta-
ken before com-
missioners in the
country, and
transmitted to
the court of
K. B.

4. Wil. & Mar-
c. 4.

Declaration in
debt against bail
on recogni-
zances in C. P.
where the ori-
ginal action was
case.

DANIEL DOFFE, late of, &c. was summoned to answer unto **Samuel Bird** in a plea that he render, &c. and thereupon &c.; that whereas the said defendant heretofore, that is to say, Trinity term, in the sixth year of the reign of our lord the king, in his own proper person came into his majesty's court before sir Robert Eyre, knight, and his brethren, then his majesty's justices of the bench at Westminster, in the said county of Middlesex, and then in the same court here did acknowledge himself to owe to the said plaintiff the sum of ten pounds eighteen shillings and tenpence, which said sum of ten pounds eighteen shillings and tenpence, the said defendant for himself and his heirs willed and granted to be made of his lands and chattels, and to be levied to the use of the said plaintiff, and upon condition that if judgment should be given in the same court here in a certain plea of trespass on the case upon promise for the said plaintiff, against one Benjamin Norton, late of London, grocer, should happen to be given, then that the said Benjamin should satisfy to the plaintiff all the damages which should be adjudged to the said plaintiff against the said Benjamin Norton, in the said court here in the said plea of trespass upon the case, or render his body in execution of that judgment to the prison of the Fleet, as by the record thereof in the said court here at Westminster aforesaid remaining may more fully appear. And whereas judgment for the said plaintiff in the said plea of trespass upon the case against the said Benjamin, by the name of Benjamin Norton, late of, &c. afterwards, in the term of St. Michael in the sixth year aforesaid, was given in the said court of the bench before sir Robert Eyre, knight, and his companions then his majesty's justices of the bench here, to wit, at Westminster aforesaid; and the said plaintiff then and there, by consideration of the said court in the same plea, recovered against the said B. fifteen pounds which to the said plaintiff in the said court here was adjudged for his damages which he had sustained by reason of not performing certain promises and undertakings made to the said plaintiff by the said Benjamin, at Westminster, &c. of which the said Benjamin is convicted, as by the record and proceedings thereof in the said court here at Westminster aforesaid remaining doth more fully appear; and the said plaintiff doth aver, that the said Benjamin hath not yet satisfied the said plaintiff's said fifteen pounds for his damages aforesaid by him the said plaintiff, against the said Benjamin so as aforesaid recovered or any part thereof, nor rendered his said body to the said prison of the Fleet in execution of the said judgment for the said fifteen pounds, according to the form and effect of the said recognizance; and that he the said plaintiff hath not yet obtained any execution of the said judgment, and the said plaintiff hath not yet sued out any execution against the said defendant upon the said recognizance, and that the said judgment recovered in form aforesaid yet remains in its full strength and effect, and not in the least reversed or satisfied, and that the said recognizance acknowledged in form aforesaid still remains in full force and effect, not vacated or satisfied; whereby an action

h

hath accrued to the said plaintiff to demand and have of and from the said defendant the said ten pounds eighteen shillings and tenpence above demanded, according to the form and effect of the said recognizance; nevertheless, &c. [Common conclusion in debt.]

If the original action be in debt, there will be some trifling difference from the above precedent, for which vide the difference in *fiore faciat*, in case, and debt, *post*.

BE it remembered that T. M. of, &c. peruke-maker, and T. W. of the parish of St. D. in the West, innholder, came before Sir Thomas Parker, knight, chief baron of his majesty's court of exchequer, at Westminster, upon the thirteenth day of May, in the thirty-first year of the reign of our sovereign lord king George the Second, and do acknowledge themselves, and each of them doth acknowledge himself to owe unto A. L. E. L. &c. the sum of forty pounds of lawful, &c. to be paid unto the said A. L. &c. or to their certain attorney, executors, administrators, or assigns, and if they do not pay the same, the said T. M. and T. W. will and submit, and each of them doth will and submit the same to be levied and recovered of the lands and tenements, goods and chattels of them the said T. M. and T. W. and each of them to the use of the said A. L. &c. The condition of this recognizance is such, that whereas an action of trespass and ejectment is depending in his majesty's court of exchequer at Westminster, between Richard Right, his majesty's debtor, plaintiff, upon the several demises of P. and L. his wife, and T. R. against the said A. L. &c. defendants, as by the proceedings therein may more fully appear; if therefore the said Richard Right do prosecute the said action with effect, and if the said T. M. and T. W. do pay and satisfy if judgment shall be given against the said Richard Right in the said action, or the said R. Right shall become non suit therein, or suffer the same through his default to be discontinued, all such costs and charges shall be allowed, awarded, and adjudged unto the said A. L. &c. any or either of them by reason thereof, or in the said action, then their recognizance to be void, or else to remain in full force and virtue.

Taken and acknowledged (conditionally) the } T. M.
day and year above mentioned, at my house in } T. W.,
Bedford-row, before

T. PARKER.

(e) See Practical Forms, Civil Division, *post*.

The

DEBT ON RECOGNIZANCE OF BAIL.

The above named T. M. and T. W. have each justified to forty pounds this ninth day of June 1758, in Serjeants Inn, before me,

T. PARKER.

Hilary Term, 32. Geo. II.

Declaration on the recognizance against one of the bail in error in the exchequer, the original action in ejectment.

MIDDLESEX, to wit. A. L. E. L. &c. debtors to his present majesty, came before the barons of his exchequer the twenty-third day of January, in this same term, by A. C. their attorney, and complain by bill against T. M. of, &c. peruke-maker, present here in court the same day, of a plea that he render unto the said A. L. &c. forty pounds of lawful, &c. which he owes to and unjustly detains from them; for that whereas the said A. L. &c. heretofore, to wit, in Michaelmas term, in the thirty-second year of his present majesty, in his said majesty's court of exchequer (the same court then and still being held at Westminster, in the county of Middlesex), before the barons of the same court, by the consideration of the same court recovered against one Richard Right seventy-two pounds ten shillings and fivepence, which were in the same court adjudged to them by the like discretion of the said barons, for their costs and charges which they sustained in a certain plea of trespass and ejectment, wherein the said R. R. was plaintiff, upon the several denises of P. C. E. L. his wife, and J. P. and the aforesaid J. L. &c. and one M. W. were defendants, and wherein it was considered by the barons that the said R. R. should take nothing by his bill than the plea aforesaid, but should be in mercy for his false clamour against them, and that they should go without day, as by the record and proceedings thereof remaining in his said majesty's court of exchequer here, to wit, at Westminster, in the county of Middlesex, more fully appears, which said judgment still remains in its full force and effect, not reversed and annulled, paid or in any wise satisfied, and the said A. L. &c. (M. W. not named) have not yet obtained execution of the said judgment: And whereas the said T. M. while the said plea was depending in the said court, to wit, in Easter term, in the thirty-first year of the reign of his said majesty, came here into court before the barons of his exchequer (the same court being then at Westminster, in the county of Middlesex), in his proper person, and then and there in the said court did acknowledge to owe unto the said A. L. &c. (M. W. not named) in the lifetime of the said M. W. the aforesaid forty pounds, to be paid unto him; and if the said T. M. did not name the same, then the said T. M. did will and submit the same to be levied of his lands and tenements, goods and chattels, under this condition, that if the said R. R. did prosecute the said action with effect, and if

if the said T. M. and T. W. named in the said recognizance and the said condition thereof, did pay and satisfy if judgment should be given against the said R. R. in the said action, or the said R. Right should become nonsuit therein, or suffer the same through his default to be discontinued, all such costs and charges as should be allowed, and awarded, and adjudged unto the said A. L. &c. any or either of them by reason thereof, or in the said action, then that recognizance to be void, or else to remain in full force and virtue, as by the said recognizance and condition thereof, remaining of record in his majesty's court of exchequer at Westminster aforesaid, more fully appears, which said recognizance yet remains in full force and effect, in no wise vacated, annulled, or satisfied, and the said A. L. &c. (M. W. not named) have not nor have or hath any of them yet obtained execution of the said recognizances: And the said A. L. &c. in fact say, that neither the said R. R. nor the said T. M. and T. W. nor any of them, have as yet paid the said costs and charges so as aforesaid recovered against him the said R. R. or any part thereof, according to the form and effect of the said recognizance, but the same still remains due and unsatisfied to them; by reason whereof an action hath accrued to the said A. L. &c. (M. W. not named) to demand and have of the said T. M. the said forty pounds above demanded; yet the said T. M. although often requested, hath not as yet paid the said forty pounds to the said A. L. &c. (M. W. not named) but hath hitherto wholly denied, and still doth deny to pay them the same, and unjustly detains the same from them; wherefore they say they are injured, and have received damage to the value of twenty-eight pounds, whereby they are the less able to satisfy his majesty the debts which they owe him at his exchequer; and therefore they bring suit, &c. Pledges, &c.

And the said T. M. by A. B. his attorney, comes and defends the wrong and injury, when, &c. and prays oyer of the said recognizance, and it is read to him in these words, *i. e.* [set out the recognizance]; he also prays oyer of the condition of the said recognizance, and it was read to him in these words, *i. e.* [set forth the condition]; which being read and heard, the said T. M. says, that the said A. L. *adit non*; because he says, that the said T. W. named in the said recognizance and condition thereof, entered into the said recognizance together with the said T. M. at the same identical time and place mentioned in the said declaration, as by the said recognizance is above alledged and set forth; and that the said T. W. after the said recovery in the said bill mentioned, for the said seventy-two pounds ten shillings and fivepence against the said Richard Right, was so had and recovered in the said court of exchequer as aforesaid, and before the exhibiting the said bill in this suit, to wit, on the twenty-second of January, A. D. 1759, at Westminster aforesaid, paid to the said A. L. &c. the sum of forty pounds mentioned in the said recognizance, and above acknowledged

known by the said T. M. and T. W. in manner aforesaid; and this he the said T. M. is ready to verify; wherefore, &c. if, &c.

Trinity Term, 23. Geo. III.

Declaration on a recognizance in K. B. against one of the bail to the original action in assumpsit in the same court.

MIDDLESEX, to wit. Be it remembered that in Easter term last past, before our lord the king at Westminster, came James Martin, Richard Stone, and John Foot, esquires, by A. B. their attorney, who brought into the court of our said lord the king then their bill against William Feltham, being in the custody of the marshal of the marshalsea of the lord the king before the king himself, of a plea of debt, and there are pledges for the prosecution, to wit, John Doe and Richard Roe, which said bill follows in these words, to wit: Middlesex, to wit, James Martin, Richard Stone, and John Foot, esquires, complain of William Feltham, being in the custody, &c. in a plea that he render unto them five hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from them; for that whereas the said plaintiffs, as surviving partners in trade with one Ebenezer Blackwell, esquire, deceased, heretofore, to wit, in Michaelmas term, in the twenty-third year of the reign of our lord the now king, in the court of our said lord the king, before the king himself here, to wit, at Westminster, in the said county of Middlesex, by the writ of our said lord the king, and by the consideration of the same court recovered against one Francis Vincent, late of Upper Grosvenor-street, in the said county of Middlesex, baronet, two hundred and seventy-eight pounds, which in and by the said court of our said lord the king, before the king himself here, were adjudged to them the said plaintiffs as such surviving partners as aforesaid for their damages which they had sustained, as well by occasion of the not performing certain promises and undertakings theretofore made by the said sir Francis Vincent to them the said plaintiffs, together with the said Ebenezer Blackwell, deceased, as for their costs and charges by them laid out about their suit in that behalf, whereof the said sir Francis Vincent was and is convicted, as by the record thereof remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, more fully appears: And whereas whilst the said suit was depending, to wit, in Easter term, in the twenty-second year of the reign of our said lord the now king, the said William Feltham came into the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in his proper person, and then and there by the name of William Feltham, of Fleet-street, London, hatter, became pledge and manucaptor for the said sir Francis Vincent, and on that occasion did acknowledge to owe to the said plaintiffs, surviving partners as aforesaid, the sum of five hundred pounds, and did submit and grant for himself and his heirs that the said sum of
five

five hundred pounds should and might be made of his lands and chattels, and levied to and for the use of the said plaintiffs, surviving partners as aforesaid, in case the said sir F. Vincent should happen to be condemned in the plea aforesaid at the suit of plaintiffs, surviving partners as aforesaid, and should not pay and satisfy unto them the said plaintiffs, surviving partners as aforesaid, the damages, &c. in the plea aforesaid, or render himself to the custody of the marshal of the marshalsea of our said lord the king, before the king himself, on that account, as by the record of the said recognizance now remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, more fully appears: And the said plaintiffs in fact further say, that the said sir F. V. hath not as yet paid or satisfied unto the said plaintiffs, or any of them, or either of them, the said damages, costs, and charges so adjudged to them the said plaintiffs in the plea aforesaid, nor surrendered himself to the custody of the marshal of the marshalsea of our said lord the king, before the king himself, on that account, but the said damages, costs, and charges are still wholly unpaid to the said plaintiffs, and the said judgment so by them in form aforesaid recovered, with the said recognizances in form aforesaid acknowledged, is still in full force, strength, and effect, in no wise reversed, set aside, paid, or satisfied, and the said plaintiffs have not as yet obtained any execution of or upon the same or either of them, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said William Feltham the said five hundred pounds in the said recognizances specified, according to the tenor and effect of the said recognizances, to wit, at Westminster aforesaid, in the said county of Middlesex: Yet the said W. F. although often requested so to do, hath not as yet rendered the said sum of five hundred pounds in the said recognizances mentioned and above demanded or any part thereof to the said plaintiffs, or any, or either of them, but he to render the same or any part thereof to the said plaintiffs, or any, or either of them, hath hitherto wholly refused and still refuses so to do, to the damage of the said plaintiffs of twenty pounds; and therefore they bring their suit, &c.

V. LAWES.

And now at this day, that is to say, on Tuesday next after the morrow of the Holy Trinity in this same term, until which day the said W. F. had leave to impair to the said bill and then to answer the said court, as well the said plaintiffs, by their said attorneys, as the said defendant, by James Mainstone his attorney, do come before our lord the king at Westminster, and the said defendant defends the wrong and injury, when, &c. and saith, that the said plaintiffs ought not to have their aforesaid action thereof maintained against him; because he saith, that there is no such record of the judgment in the said declaration mentioned remaining in the said court of our lord the king, before the king himself here, as the said plaintiffs have above in that behalf alledged; and

2d Plea, *mul. tid.* this he the said defendant is ready to verify; wherefore he prays
record of the judgment if the said plaintiffs ought to have their aforesaid action
recognizance of thereof maintained against him, &c.: And for further plea in this
bail. behalf the said defendant, by leave, &c. saith, that the said plain-
 tiffs *actio non*; because he saith, that there is no such record of
 the recognizance in the said declaration mentioned remaining in
 the said court of our said lord the king, before the king himself
 here, as the plaintiffs have above in this behalf alledged; and
 this he the said defendant is ready to verify, &c.; wherefore, &c.

3d Plea, *no ca.* [as before]: And for further plea in this behalf the said defendant,
sa. sued out a- by leave, &c. saith, that the said plaintiffs *actio non*; because he
gainst the prin- saith, that after the recovery of the judgment aforesaid, and before
cipal before the exhibiting of the bill of them the said plaintiffs against him the
the commence- said defendant there was not any writ of *capias ad satisfaciendum*
ment of this sued out of the court of our said lord the king, before the king
suit. himself here, by the said plaintiffs against the said sir F. V. upon
 the said judgment, and duly returned and filed of record in the said
 court, as there ought to have been by law and according to an-
 cient and immemorial usage and custom of the said court, before
 the exhibiting of any bill by them the said plaintiffs against him
 the said defendant upon any action of debt upon the said recogni-
 zance; and this he the said defendant is ready to verify; where-
 fore, &c. [as before]: And for further plea in this behalf the said

4th plea, *death* defendant, by like leave, &c. says, that the said plaintiffs *actio non*;
of principal be- because he saith, that after the said recovery, and before the suing
fore the suing out of any writ of *capias ad satisfaciendum* thereupon by the said
out any ca. sa. plaintiffs, to wit, on the eleventh day of January, in the year last
against him. aforesaid, he the said F. V. died, to wit, at Westminster aforesaid;
 and this he the said defendant is ready to verify; wherefore, &c.
 [as before]: And for further plea in this behalf the said defend-
 ant, by like leave, &c. saith, that the said plaintiffs *actio non*; be-
 cause he saith, that he the said defendant heretofore, to wit, on the
 first day of February, A. D. 1783, to wit, at Westminster aforesaid,
 became and was a bankrupt within the true intent and meaning of the
 several statutes made and then in force concerning bankrupts, and
 that the cause of action aforesaid did not accrue to the said plaintiffs
 before such time as he the said defendant so became a bankrupt, to
 wit, at Westminster aforesaid; and of this he the said defendant
 puts himself upon the country; and the said plaintiffs do the
 like, &c.

Drawn by MR. TIDD.

Replication to 1st plea, that And the said plaintiffs, to the said plea of the said defendant by
 there is such re- him first above pleaded in bar, say, that they by reason of any
 cord to judg- thing therein alledged ought not to be barred from having and
 ment. maintaining their aforesaid action against him the said defendant;
 because they say, that there is such record of the judgment in the
 said declaration mentioned remaining in the said court of our lord
 the king, before the king himself here, to wit, at Westminster
 aforesaid, in the said county of Middlesex, as they the said plain-
 tiffs

tiffs have above in that behalf alledged; and this they are ready to verify by the said record when, where, and in what manner the said court here shall order, &c. : And as to the said plea of the said defendant by him secondly above pleaded in bar, they the said plaintiffs say, that they by reason of any thing therein alledged *precludi non*; because they say, that there is such record of the recognizance in the said declaration mentioned remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in the said county of Middlesex, as they the said plaintiffs have above in that behalf alledged; and that they are ready to verify by the said record when, where, and in what manner the court here shall order, &c. : And as to the said plea of the said defendant by him thirdly above pleaded in bar, they the said plaintiffs say, that they by reason of any thing therein alledged *precludi non*; because they say, that the said promises and undertakings mentioned in the said declaration alledged to have been and to be made in the county of Middlesex, and that after the recovery of the judgment aforesaid, and before the exhibiting of the bill of them the said plaintiffs against the said defendant, to wit, on the sixth of November, in the twenty-third year of the reign of our lord the now king, they the said plaintiffs sued and prosecuted out of the said court of our said lord the king, before the king himself, the said court then and there still being held at Westminster aforesaid, in the said county of Middlesex, a certain writ of our said lord the king called a *capias ad satisfaciendum* of and upon the said judgment, directed to the sheriff of Middlesex, which said writ of our said lord the king, commanded x the said sheriff that he should take the said sir F. V. against whom such judgment was recovered as aforesaid, if he should be found in his bailiwick, and him safely keep, so that he had his body before our said lord the king in fifteen days of St. Martin, wheresoever our said lord the king should then be in England, to satisfy the said plaintiffs, surviving partners in trade with the said E. B. esquire, deceased as aforesaid, two hundred and seventy-eight pounds for their damages aforesaid, in form aforesaid recovered, and that the sheriff should have there then the said writ, which said writ afterwards, and before the return thereof, to wit, on the sixteenth day of November, in the said year of Our Lord 1782, at Westminster aforesaid, was directed to Robert Taylor and Benjamin Cole, esquires, who then and from thenceforth until, and at, and after the return of the said writ were sheriffs of the said county of Middlesex, to be executed in due form of law, at which day, that is to say, on the said fifteenth day of St. Martin in the said writ mentioned, before our said lord the king at Westminster, came the said plaintiffs in their own proper persons, and the aforesaid sheriffs of Middlesex, to wit, the said R. T. esquire, and B. C. esquire, who and there returned on the said writ to our said lord the king, that the said sir F. V. in the said writ named, was not found in his bailiwick, as by the said writ and the return thereof, which was afterwards, and before the exhibiting of the bill of the said plaintiffs

Replication to the 2d plea, that there is such record of the recognizance.

Replication to 3d plea, setting out a writ of *ca. sa.* against the principal, and a return thereof.

Replication to the 4th plea, that after the time *ca. sa.* was sued out against the principal, he was living.

That is the proper conclusion to such plea, *vide* the case of Telwood against Popplewell, 2. Wils. 66.

plaintiffs against the said defendant, duly filed in the said court of our said lord the king, before the king himself at Westminster now there remaining, more fully appears; and this they the said plaintiffs are ready to verify; wherefore they pray judgment and their costs afore said, together with their damages by them sustained on occasion of the detention thereof, to be adjudged to them, &c.:

as to the said plea of the said defendant by him fourthly above pleaded in bar, they the said plaintiffs, by like leave, &c. say, they by reason of any thing therein alledged ought not to be barred from having and maintaining their afore said action against him the said defendant; because they say, that the several promises and undertakings mentioned in the said declaration, whereon the judgment afore said was recovered, were in the said declaration alledged to have been and to be made in the county of Middlesex, that after the recovery of the judgment afore said, and before exhibiting of the bill of them the said plaintiffs against the said defendant, to wit, on the sixth day of November, in the twentieth third year afore said, they the said plaintiffs sued out and prosecuted out of the said court of our said lord the king, before the king himself, the said court then and still being held at Westminster afore said, in the said county of Middlesex, a certain writ of our said lord the king called a *capias ad satisfaciendum* of and under the said judgment, directed to the then sheriff of Middlesex which said writ our said lord the king commanded, &c. [as in the last plea from this x to this +, omitting what is in Italic, proceed as follows]: And the said plaintiffs in fact further allege that the said sir F. V. at the time of suing out, returning, filing the said writ of *capias ad satisfaciendum* against him the said sir F. V. in manner afore said, was and still is living and in life, to wit, at Westminster afore said; and this they the plaintiffs are ready to verify; wherefore they pray judgment their debt afore said, together with their damages by them sustained on occasion thereof, to be adjudged to them, &c.

S. SHEPHER

Rejoinder to 3d plea.

And the said defendant, as to the said plea of the said plaintiffs by them above pleaded by way of reply to the said plea of the defendant by him thirdly above pleaded in bar, says, that the plaintiffs by reason of any thing in the said plea so pleaded by way of reply above alledged ought not to have or maintain their said action against him the said defendant; because he saith that there is no such record of the said writ of *capias ad satisfaciendum* turned and filed of record in the said court of our said lord the king before the king himself, at Westminster afore said, as they the plaintiffs have above in their said plea so pleaded by way of reply in that behalf alledged; and of this he puts himself upon the country, &c. : And as to the said plea of the said plaintiffs by them above pleaded by way of reply to the said plea of the said defendant by him fourthly above pleaded, the said defendant says, that the said plaintiffs by reason of any thing in their said last-mentioned

Rejoinder to 4th plea.

plea so pleaded by way of reply alledged, ought not to have or maintain their aforesaid action against him; because he says, that by the course and practice of the court of our lord the now king, before the king himself, all judicial writs issuing out of the said court in any term are tested as of the first day of that term, and that accordingly the said writ of *capias ad satisfaciendum* in the said last-mentioned plea so pleaded by way of reply, alledged to have been sued and prosecuted out of the said court of our said lord the now king, before the king himself, although the same was tested, and *prima facie* appears to have been sued and prosecuted out of the same court on the sixth day of November, being the first day of Michaelmas term, in the twenty-third year aforesaid, was really and *bona fide* sued and prosecuted out of the same court on the twenty-fourth of November, in the twenty-third year aforesaid, and not before, and that at the time when the said writ of *capias ad satisfaciendum* was so sued and prosecuted out of the said court of the said lord the king, before the king himself, in manner aforesaid, the said sir F. V. was dead, to wit, at Westminster aforesaid; and of this the said defendant puts himself upon the country, &c.

Causes of demurrer to said rejoinder.

C. RUNNINGTON.

And the said plaintiffs, as to the said plea of the said defendant by him above pleaded by way of rejoinder to the said plea of the said plaintiffs by them above pleaded by way of reply to the said plea of the said defendant by him thirdly above pleaded in bar, say, that the said plea of the said defendant so by him pleaded by way of rejoinder and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar them the said plaintiffs from having and maintaining their aforesaid action against him, nor are they under any necessity or in anywise bound by the law of the land to answer thereto; and thus they are ready to verify; wherefore and for want of a sufficient rejoinder in this behalf they the said plaintiffs pray judgment and their debt aforesaid, together with their damages by them sustained on occasion of the detention thereof to be adjudged to them: And for causes of demurrer in law, according to the form of the statute in such case made and provided, they the said plaintiffs assign and shew to the court here as follows, to wit, for that the said defendant hath not in or by his said rejoinder confessed, traversed, or denied the said replication of the said plaintiffs to which the said rejoinder is pleaded, but hath offered an issue upon a collateral and foreign point; and for that the said defendant hath in and by his said rejoinder only traversed and denied the evidence of the fact disclosed and set forth in the replication to which such rejoinder is pleaded, and not the fact itself; and for that the said rejoinder is concluded to the country, whereas inasmuch as the point and issue can only be tried by the record of the writ mentioned in the replication to which such rejoinder is pleaded, or by the writ itself, so the said rejoinder should have been concluded

Demurrer, with causes.

Causes of demurrer to the said rejoinder,

Causes of de-
murrer to 2d
rejoinder.

with a verification or to the court, or the same should have merely negatived the fact set forth in the said replication; and for that the said rejoinder is in various other respects uncertain, insufficient, and informal, &c.: And as to the said plea of the said defendant by him above pleaded by way of rejoinder to the said plea of the said plaintiffs by them above pleaded by way of reply to the said plea of the said defendant by him fourthly above pleaded in bar, they the said plaintiffs say, that the said plea of the said defendant so by him pleaded by way of rejoinder and the matters therein contained, &c. [demur as before]; and for causes of demurrer, &c. [as before]; for that the said defendant hath with respect to him is altogether immaterial; and for that he hath concluded the said rejoinder to the country when he should have concluded it with a verification and to the court; and for that the said rejoinder is in various other respects uncertain, insufficient, and informal, &c.

V. LAWES.

Joinder in de-
murrer.

And the said defendant says, that the said plea of the said defendant by him above pleaded by way of rejoinder to the said plea of the said plaintiffs by them above pleaded by way of reply to the said plea of the said defendant by him thirdly above pleaded in bar, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are sufficient in law to bar them the said plaintiffs from having and maintaining their aforesaid action against him; and this he is ready to verify and prove as the court shall award; and because the said plaintiffs have not answered the said rejoinder he the said defendant prays judgment, and that the said plaintiffs may be barred from having their said action thereof against him; and as to the said plea of the said defendant by him above pleaded by way of rejoinder, &c. he the said defendant says, that the said plea of him the said defendant so by him pleaded by way of rejoinder and the matters therein contained, as the same are above pleaded and set forth, are sufficient, &c. [as before]; but because the court of our said lord the king, before the king himself, will advise amongst themselves what judgment to give upon the last-mentioned issues whereon the said parties have put themselves upon the judgment of the court here, before they give judgment thereon, a day is therefore given to the parties aforesaid to come before our lord the king at Westminster, on next after , to hear judgment thereon, because that the court of our lord the king now here is not yet advised thereof, and because the said court here will examine into and inspect the records of the said court here, to see whether there be such a record of the same judgment in the said declaration mentioned, and such a record of such a recognizance in the said declaration mentioned, as in the said declaration is alledged, before they give judgment upon the premises in that respect referred to their determination, the same day, that is to say, the said next after is therefore given to the parties aforesaid to come before our lord the king at Westminster to hear judgment thereon, for that the said court here

Cur. adv. vult.

is not yet advised thereof, and to try the issue above joined to be tried by the country, let a jury come before our lord the king at Westminster, on next after , by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties there, &c.

Hilary Term, 25. Geo. III.

MIDDLESEX, to wit. John Belleny complains of William Watt and Robert Stunell, being, &c. of a plea that they render to the said John the sum of one hundred and twenty pounds twelve shillings and sixpence of lawful money of Great Britain, which they owe to and unjustly detain from him; for that whereas the said William heretofore, to wit, on the second day of February, A. D. 1784, before Edward Willes, esquire, then and still being one of the justices of our lord the king, assigned to hold pleas in the court of our said lord the king, before the king himself, at his chambers, situate in Serjeant's-inn, Chancery-lane, London, come the said William and Robert in their own proper persons, and then and there, by their several names and additions of William Watt, of Stepney-Causeway, in the parish of St. Dunstan, Stepney, in the county of Middlesex, mariner, and Robert Stunell, of Palsgrave-place, Temple-bar, in the said county of Middlesex, hair-dresser, according to the form of the statute in such case made and provided, acknowledged themselves to owe to the said John the sum of one hundred and twenty pounds twelve shillings and sixpence of lawful money of Great Britain, to be paid to the said John, his executors, or assigns, and unless they should so do, the said William and Robert did grant and agree that the said sum of one hundred and twenty pounds twelve shillings and sixpence of their lands and chattels should be made and levied to the use of the said John, upon condition nevertheless reciting that the aforesaid John had then lately in the court of our said lord the king, before the king himself, at Westminster, by bill, without the writ of our said lord the king, and by the judgment of the same court recovered against Alexander Watt seventy-two pounds for his damages, which he had sustained as well by reason of the not performing certain promises and undertakings then lately made by the said Alexander Watt to the said John as for his costs and charges by him about the writ in that behalf expended, whereof the said Alexander had been convicted, as appeared of record in the said court of our said lord the king, before the king himself, at Westminster; and also reciting that the said Alexander Watt had brought a writ of error upon the judgment aforesaid, returnable before the justices of the said lord the king of the common bench, and the barons of the exchequer, of the degree of the coif, in the exchequer chamber, on Saturday the thirty-first day of January, in the twenty-fourth year of the reign of our said lord the king, if therefore the said Alexander should prosecute the said writ of error with effect, and also should pay and satisfy to the said John, if the said judgment should

Declaration on a recognizance of bail in error after judgment, affirmed in exchequer chamber.

should be affirmed, or the said writ of error should be discontinued in his default, or he should be nonsuit therein, as well the damages aforesaid adjudged upon the said judgment, as also all such costs, charges, and damages as should be awarded to the said John for the delaying the execution of the judgment aforesaid, by pretext of prosecuting the said writ of error, then that recognizance should be void, or else should be and remain in full force and virtue, which said recognizance so acknowledged as aforesaid, together with the condition thereof afterwards, to wit, on Thursday next after eight days of the purification of the Blessed Virgin Mary, in the term of St. Hilary, in the twenty-fourth year of the reign of our said lord the king, by the said Edward Willes, esquire, was recorded in the court of our said lord the king, before the king himself, the same court then and still being holden at Westminster, in the county of Middlesex aforesaid, as by the record of the said recognizance and the condition thereof remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster, in the county of Middlesex aforesaid, manifestly appears: And the said John further says, that the said Alexander Watt prosecuted the writ of error in the exchequer chamber aforesaid, and such proceedings were thereupon had in the said exchequer chamber before the justices and barons aforesaid, that afterwards, to wit, on Monday the thirty-first day of January, in the twenty-fourth year of the reign of our said lord the king, the judgment aforesaid was in all things affirmed: And the said John by the consideration of that court did recover against the said Alexander Watt fifteen pounds ten shillings adjudged to him at his request by that court for the damages, costs, and charges sustained by reason of the delay of the execution of that judgment, and by the prosecution of the said writ of error, and thereupon the record and proceedings of the said justices of the common bench and barons of the exchequer before them had in the premises were remitted before the said lord the king wheresoever, &c. according to the form of the statute in that case made and provided, as by the record and proceedings thereof now remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, manifestly appears: And the said John in fact says, that the said Alexander Watt hath not paid or satisfied to the said John the damages aforesaid so recovered by the said John against the said Alexander Watt in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, nor the said damages, costs, and charges adjudged in the said exchequer chamber by reason of the delay of the execution of that judgment, and by the prosecution of the said writ of error: And the said John avers, that as well the aforesaid recognizance as the judgment aforesaid remain in their full force, strength, and effect, not in anywise reversed, vacated, and satisfied, and the said John has not sued out or obtained any execution upon the aforesaid recognizance, whereby an action hath accrued to the said John to demand and have of the said William and Robert

bert the aforesaid sum of one hundred and twenty pounds twelve shillings and sixpence above demanded; yet the said William and Robert, although often requested, &c. have not, nor hath either of them yet paid the said sum of one hundred and twenty pounds twelve shillings and sixpence above demanded or any part thereof to the said John; but to pay the same or any part thereof to the said John, they the said William and Robert have, and each of them hath hitherto wholly refused, and still do refuse, to the said John his damage of twenty pounds; and therefore he brings his suit, &c.

C. RUNNINGTON,

And the said Robert, by John A. his attorney, comes and defends *Demurres*, the wrong and injury, when, &c. and says, that the said declaration and the matters therein contained are not sufficient in law for the said John to have or maintain his aforesaid action against him the said Robert, to which said declaration, in manner and form as the same is above made and set forth, he the said Robert is not under any necessity, or in anywise bound by the laws of the land to answer; and this he is ready to verify; wherefore for want of a sufficient declaration in this behalf, he the said Robert prays judgment, and that the said John may be barred from having and maintaining his aforesaid action thereof against him; and for causes of demurrer in law in this behalf, he the said Robert, according to the form of the statute in such case made and provided, shews to the court here the causes following, to wit, for that the said declaration is intitled generally of Hilary term, in the twenty fifth year of his present majesty, which refers and relates to the first day of that term, being the twenty-fourth day of January in that year; and it is also stated in and by the said declaration, that the said judgment in the said declaration mentioned was affirmed in the exchequer chamber aforesaid before the justices and barons there on Monday the thirty-first day of January, in the said twenty-fifth year, which is subsequent to the said time of the exhibiting of the aforesaid bill of the said John against the said Robert, and therefore it appears from the face of the said declaration that the said pretended cause of action in the said declaration mentioned had not accrued to the said John at the time of his exhibiting his aforesaid bill against the said Robert in manner aforesaid; and also for that the said declaration is in other respects defective, insufficient, informal, and so forth.

W. WALTON.

Trinity Term, 25. Geo. III.

MIDDLESEX, to wit. John Harland, late of Westminster, Declaration in the county of Middlesex, taylor, and Robert Moscrop, late of debt against bail on their recognizance. the same place, in the county aforesaid, gardener, were summoned to answer to Alexander Bean, in a plea that they render unto the said Alexander Bean twenty pounds of lawful money of Great Britain, which they owe to and unjustly detain from him, &c.; and thereupon

thereupon the said Alexander, by James Mitchell his attorney, complains ; for that whereas the said John and Robert heretofore, to wit, in Michaelmas term, in the twenty-fifth year of the reign of our lord the now king, in their own proper persons came into his majesty's court of the bench here, to wit, at Westminster, in the county of Middlesex, and then and there in the same court, before Alexander lord Loughborough and his companions, justices of the same court, did acknowledge, and each of them acknowledged that they owed to the said Alexander twenty pounds, which said sum of twenty pounds they the said John and Robert for themselves and their heirs consented and granted, and each of them for himself and his heirs consented and granted, should be made of their and each of their lands and chattels, and to the use and behoof of the said Alexander levied upon and under a certain condition, to wit, if judgment should happen in the same court here to be given for the said Alexander against one Samuel Schoultz, in a certain plea, to wit, a plea of trespass and assault theretofore brought in the same court by the said Alexander against the said Samuel Schoultz, then the said Samuel Schoultz should satisfy all the damages which should be adjudged unto the said Alexander against the said Samuel Schoultz in the same court here in the said plea, or should render his body to the prison of the Fleet on that occasion, as by the record thereof remaining in the said court here, to wit, at Westminster aforesaid, more fully appears : And whereas after the entering into the said recognizance, to wit, in Easter term, in the twenty-fifth year aforesaid, judgment was given in the said court here, before the said Alexander lord Loughborough and his companions, then his majesty's justices of the bench here, to wit, at Westminster aforesaid, for the said Alexander against the said Samuel Schoultz in the plea aforesaid ; and the said Alexander then and there by the consideration of the said court recovered against the said Samuel Schoultz in the said plea seventy-seven pounds, which in and by the said court here were then and there adjudged to the said Alexander for his damages which he had sustained, as well on occasion of a certain trespass and assault theretofore committed by the said Samuel Schoultz towards the said Alexander, as for his costs and charges by him about his suit in that behalf expended, whereof the said Samuel Schoultz was convicted, as by the record and proceedings thereof remaining in the said court here, to wit, at Westminster aforesaid, more fully appears : And the said Alexander avers, that the said Samuel Schoultz hath not yet satisfied him the said Alexander the said damages so to him adjudged as aforesaid, or any part thereof, nor rendered his body to the said prison of the Fleet on that occasion, nor hath he the said Alexander as yet obtained execution of or upon the said judgment and recognizance, or either of them, but the said judgment and recognizance are and each of them is in full force, strength, and effect, not in the least reversed, annulled, set aside, paid off, or satisfied, whereby another action hath accrued to the said Alexander to demand and have of and from the said

faid John and Robert the faid twenty pounds above demanded, according to the form and effect of the faid recognizance; yet the faid John and Robert, although often requested, have not, nor hath either of them yet paid the faid twenty pounds to the faid Alexander; but to pay the same or any part thereof have altogether refused, and still do and each of them doth refuse; damage twenty pounds; suit, &c.

V. LAWES.

And the faid John and Robert, by Alexander How their attorney, say, that the faid Alexander Bean ought not to have or maintain his faid action against them to recover his damages aforesaid, by pretence of his faid recognizance; because they say, that the faid Samuel Schoultz, in the faid judgment mentioned, before the return of any writ of *capias ad satisfaciendum* thereon against him, died, to wit, at Westminster aforesaid, in the county aforesaid; and this, &c.; whereof, &c.; if, &c.

Plea thereto, before any *capias ad satisfaciendum* issued, principal died.

J. ADAIR.

AND the faid defendant, by A. B. his attorney, comes, &c. and says, that the faid plaintiff ought not to have execution of the debt and damages aforesaid against him, because he says, that there is not any record of the recognizance in the faid declaration mentioned remaining in the faid court of our faid lord the king, &c.; and this, &c.; wherefore, &c. if the faid plaintiff ought to have execution of the debt and damages aforesaid against him, &c.

Plea of *nil tibi debet* record of recognizance.

J. MORGAN.

THAT whereas the faid defendant on, &c. in the twenty-seventh year of the reign of, &c. at, &c. by his certain writing-obligatory of statute merchant, acknowledged before W. P. then mayor of that city, and H. F. then clerk, appointed to take recognizance of debt, as the seal of the faid Queen, appointed for the sealing of such writings, according to the form of the statute in such case made and provided, acknowledged himself to be bound to N. and N. or either of them in the faid one hundred pounds, to be paid to the faid N. and N. or either of them, on then next ensuing; yet the faid defendant, although often requested, hath not paid the faid one hundred pounds to the faid N. and N. or to either of them; but to pay the same, &c. and thereupon, &c. and the faid N. and N. bring here into court. &c.

Declaration on a statute merchant.

Hilary Term, 29. Geo. III.

MIDDLESEX, to wit. Edward Holland, esquire, complains Declaration in of Mary Deale and William Gardner, being, &c.; for that debt against whereas heretofore, that is to say, on the fourth day of February both the bail on 1788, the faid defendants by the several and respective names and their recognizance entered into on prosecuting a writ of error in the exchequer chamber, descriptions

ment of the said court recovered against the said E. thirty-one pounds which in the said court were then and there adjudged to the said G. and with his assent, according to the form of the statute in such case made and provided for his costs and charges which he had been put unto in and about his defence in a certain plea of trespass on the case then lately commenced by the said E. against the said G. in the said court, for that the said E. did not prosecute her suit with effect, but became nonsuit therein, whereof the said E. was convicted, as by the record and proceedings thereof in the said court here remaining more fully appears, which said judgment still remains in full force and effect, not reversed, vacated, discharged, or satisfied, and the said G. hath not obtained any execution of that judgment, whereby an action hath accrued to the said G. to demand and have of and from the said E. the said thirty-one pounds above demanded; yet the said E. although often requested, hath not paid the said thirty-one pounds or any part thereof to the said G. but to pay the same or any part thereof to him hath hitherto wholly refused, and still doth refuse, to the said plaintiff his damage of fifty pounds, &c.

T. BARROW.

Declaration on
a judgment for
not declaring.

(If the nonsuit was for not declaring, say instead of the words in Italic, as in the last precedent) “By the consideration of the said court recovered against the said E. for his costs and charges by him sustained in and about his defence of a certain action therefore brought against him the said defendant by the said plaintiff in the said court here in a certain plea of trespass, for that the said defendant did not further prosecute his writ or bill.”

Action of debt is local, and must be brought in that county where it was recovered, and the record is.

Declaration on a
judgment in
C. P. but re-
moved into K.B.
by writ of error.

MILKEY
against
WHITTINGHAM. } M. H. late of, &c. was summoned to an-
swer M. H. administratrix of, &c. in a plea
that she the said defendant render to the said
plaintiff, as such administratrix as aforesaid, thirty-five pounds of,
&c. which she the said defendant owes to and unjustly detains
from her the said plaintiff, as such administratrix as aforesaid; and
thereupon the said plaintiff, administratrix as aforesaid, by A. B.
her attorney, complains; for that whereas the said plaintiff, as
such administratrix as aforesaid heretofore, to wit, in Trinity
term, in the twenty-fifth year of the reign, &c. in the court of
our lord the king, before A. L. and his brethren, then his ma-
jesty's justices of the bench at Westminster, in the said county of
Middlesex, by the consideration of the said court recovered against
the said defendant pounds, &c. which in and by the
said court were then and there adjudged to the said plaintiff
as such administratrix as aforesaid for her damages which
she had sustained, as well by reason of the non-performance
of certain promises and undertakings made by the said defendant
to

to the said D. in his lifetime, as for her costs and charges by her about her suit in that behalf expended, whereof the said defendant was convicted, as by the record and proceeding thereof which for certain supposed causes for error were afterwards removed into the court of our lord the king, before the king himself (the said court then and still being holden at Westminster aforesaid, in the county aforesaid), and are now there remaining, more fully appears; which said judgment still remains in full force and effect, not reversed, paid off, or satisfied, nor hath the said plaintiff as yet obtained execution of the same, whereby an action hath accrued to the said plaintiff, as such administratrix as aforesaid, to demand and have of and from the said pounds so by her recovered as aforesaid, parcel of the said pounds above demanded: And whereas (2d Count as upon a judgment remaining in the 1d Count. court below, and not as removed by the writ of error. Common conclusion in debt.)

V. LAWES.

BENJAMIN BOOTH complains of H. Holland Cooksey being, &c. in a plea that he render unto the said plaintiff one hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from him; for that whereas the said plaintiff heretofore, in the same term in the twenty-ninth year of the reign of our lord the now king, in the court of our lord the now king, before the king himself here (the said court then and still being held at Westminster, in the county of Middlesex), by the consideration and judgment of the said court did recover against the said defendant the sum of pounds, which in and by the said court of our said lord the king, before the king himself here, was adjudged to the said plaintiff for the damages which he had sustained as well by reason of the committing of a certain trespass before then committed by him the said defendant as for his costs and charges by him about his suit in that behalf expended, whereof the said defendant was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the king himself, more fully appear; which said judgment still remains in full force, strength, and effect, not in anywise reversed, vacated, or paid off, and the said Benjamin hath not as yet sued out or obtained any execution of or upon the aforesaid judgment so in form aforesaid recovered, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said sum of pounds, parcel of the said sum of pounds above demanded: And whereas the said defendant heretofore, to wit, on, &c. at, &c. borrowed of the said plaintiff pounds of lawful, &c. to be repaid by him the said defendant to the said plaintiff, when he the said defendant should be thereto afterwards requested, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said sum of pounds, residue of the said sum

Declaration on judgment recovered in King's Bench.

1d Count, on a *mutualitas*.

sum of pounds above demanded; yet, &c. (Common conclusion.) V. LAWES.

Michaelmas Term, 28. Geo. III.

Declaration in debt on a judgment recovered in C. B. in an action of *assumpsit*, the record being removed and remaining in B. R. by a writ of error.

MIDDLESEX, to wit. William Shepherd, late of, &c. George Cooke, late of, &c. Joseph Kilner, late of, &c. were summoned to answer John Entwistle, James Entwistle, and James Sturtwate of a plea that they render to the said plaintiffs five thousand forty-three pounds of lawful money of Great Britain, which they owe to and unjustly detain from them; and thereupon the said plaintiffs, by A. B. their attorney, complain; for that whereas the said plaintiffs, in Easter term, in the twenty-seventh year of the reign of our lord the now king, in the court of our said lord the king of the bench, before the right honourable Alexander lord Loughborough and his brethren, our said lord the king's justices of the bench at Westminster, in the said county of Middlesex, by writ and by the consideration and judgment of the said court, recovered against the said defendants five thousand and forty-three pounds for their damages which they had sustained as well by reason of the non-performance of certain promises and undertakings by them the said defendants before that time made to the said plaintiffs as for the costs and charges of the said plaintiffs by them about their suit in that behalf expended, by the same court of the bench adjudged to them the said plaintiffs, whereof the said defendants are convicted, as by the record and proceedings thereof which our said lord the king lately caused to be removed into the court of our lord the king here, before the king himself, by virtue of a certain writ for correcting errors prosecuted by the said defendants thereon, and which remains in the court of our said lord the king, before the king himself here, at Westminster, it most manifestly appears; which said judgment is still remaining in its full force, strength, and effect, not paid, satisfied, in nowise annulled, vacated, reversed, or discharged, nor have the said plaintiffs nor any or either of them obtained any execution of the said judgment or any part thereof, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of five thousand and forty-three pounds above demanded; yet the said defendants have not, nor have any or either of them yet rendered or paid the said sum of five thousand and forty-three pounds or any part thereof to the said plaintiffs, or to any or either of them, although often requested so to do, but the said defendants have, and each of them hath hitherto altogether refused, and still do, and each of them still doth refuse to render or pay the same or any part thereof to the said plaintiffs, or to any or either of them, whereupon the said plaintiffs say that they are injured, and have sustained damage to the value of five hundred pounds; and therefore, &c.

Drawn by MR. GRAHAM.

The Court would not stay proceedings in this action pending the writ of error, it appearing vexatious. 2. Durn. and East, 78.

MIDDLESEX

MIDDLESEX, to wit. John Matthews complains of William Greenby being, &c. of a plea that he render to him the said John the sum of twelve pounds of, &c. which he owes to and unjustly detains from him; for that whereas the said John heretofore, that is to say, in the term of St. Michael, in the twenty-eighth year of the reign of our said lord the now king now last past, in the said court of our said lord the king, before the king himself, the same court then and still being at Westminster, in the said county of Middlesex, by the consideration of the same court, recovered against the said William the said sum of twelve pounds for his costs and charges by him laid out and expended in and about his defence in a certain action or suit brought by the said William against the said John for the supposed non-performance of certain supposed promises and undertakings made by the said John to the said William, adjudged to the said John at his request in and by the said court, for that the said William did neglect to bring the issue joined in the aforesaid action or suit on to be tried according to the course and practice of the said court, whereof the said William is convicted, as by the record and proceedings thereof now remaining in the said court of our said lord the king, before the king at Westminster aforesaid, more fully appears; which said judgment still remains in its full force, strength, and effect, not in any wise annulled, vacated, or satisfied, and the said John hath not yet obtained execution for the said twelve pounds or any part thereof, whereby an action hath accrued to the said John to demand and have of and from the said William the said sum of twelve pounds above demanded; yet, &c. (Common conclusion in debt.)

Declaration in debt on a judgment in B. R. as in case of a nonsuit, for not going to trial.

Drawn by MR. GRAHAM.

Easter Term, 27. Geo. III.

CARNARVONSHIRE, to wit. Robert Lewis complains of John Roberts, executor of the last will and testament of R. L. deceased, being, &c. in a plea that he render to him the sum of thirty-four pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c.; for that whereas the said R. L. heretofore, that is to say, in Hilary term, in the twenty-seventh year of the reign of our sovereign lord the now king, in the court of our said lord the king, before the king himself, the same court then and there being held at Westminster, in the county of Middlesex, by the consideration and judgment of the said court, recovered against the said John, as executor of the last will and testament of R. L. deceased, as well the said thirty-four pounds for his damages which he had sustained by reason of the non-performance of certain promises and undertakings by the said R. L. deceased, in her lifetime made to the said Robert, as also eighteen pounds for the costs and charges of the said Robert by him about his suit in that behalf expended, to be levied of the property of the said John, and had levied the eighteen pounds of the goods of executor, and had returned nulla bona of testatrix, and suggesting a devastavit by the executor to the amount of thirty-four pounds.

Declaration on a judgment recovered against executor, on a promise of testatrix for thirty-four pounds for damages, to be levied of the goods of testatrix, and eighteen pounds for costs, to be levied of the goods of executor, if the assets of testatrix were insufficient, stating that a *testatum fieri facias* had issued, under which the

nulla bona of test-

per goods and chattels which were of the said R. L. deceased at the time of her death in the hands of the said John, as executor as afore-
 said to be administered, if he had so much thereof in his hands to be administered, and if the said J. R. executor as afore-
 said, had not so much of the proper goods and chattels which were of the said R. L. at the time of her death in his hands to be administered, then the said eighteen pounds, the costs and charges afore-
 said, to be levied of the proper goods and chattels of the said John, where-
 of the said John, as executor as afore-
 said, was convicted, as by the record and proceedings thereof now remaining in the said court of our said lord the king, before the king himself, at West-
 minster afore-
 said, more fully appears; which said judgment still re-
 mains in full force, strength, and effect, and in nowise reversed, cancelled, or vacated, nor hath he the said Robert yet obtained any satisfaction for the same, except as hereinafter mentioned, to wit, at, &c. in, &c.: And the said Robert further says, that after the giving the said last-mentioned judgment, and whilst the same remained in full force and effect, to wit, on, &c. in the twenty-seventh year of the reign of, &c. he the said Robert, for the obtaining his damages, costs, and charges afore-
 said sued out of the court of our said lord the king, before the king himself, the said court then and still being at Westminster, in the county of Middlesex afore-
 said, a certain writ of our said lord the king of *testatum fieri facias* directed to the sheriff of the county of C. by which said writ our said lord the king commanded the said sheriff that of the goods and chattels that were of the said R. L. at the time of her death in the hands of the said John, executor as afore-
 said, to be administered in his the said sheriff's bailiwick, he cause to be made as well the said sum of thirty-four pounds so recovered by the said Robert for his damages afore-
 said, as also the said sum of eighteen pounds for his costs and charges by him about his suit in that behalf expended, to be levied of the goods and chattels which were of the said R. L. at the time of her death in the hands of the said John, executor as afore-
 said, to be administered, if the said John had so much in his hands to be administered; and if the said John, as executor as afore-
 said, had not so much of the proper goods and chattels which were of the said R. L. at the time of her death in his hands to be administered, then the said sum of eighteen pounds, the costs and charges afore-
 said, to be levied of the proper goods and chattels of the said John, and that the said sheriff should have the said money before our said lord the king, at Westminster afore-
 said, on , next after , to be paid to the said Robert for his damages, costs, and charges afore-
 said, and that he should have there then that writ; which said writ afterwards, and before the return thereof, to wit, on, &c. in the twenty-seventh year of, &c. was delivered to A. B. esquire, then being sheriff of the said county of C. to be by him executed in due form of law, to wit, at, &c. in, &c.; to which said writ the said sheriff afterwards, and at the return of the said writ, to wit, on Wednesday next after fifteen days from the

DEBT ON JUDGMENT IN B. R.

the day of Easter, returned to the said court of our said lord the king, before the king himself (the same court then and still being at Westminster aforesaid), that the said John, executor of the last will and testament of the said R. L. had not any goods and chattels which were of the said R. L. at the time of her death in his hands to be administered in the bailiwick of the said sheriff, whereof he could cause to be made the damages aforesaid or any part thereof; and the said sheriff further certified that he had caused to be levied and made of the proper goods and chattels of the said John eighteen pounds, the costs and charges, as the said sheriff was commanded, as by the record of the said writ and return thereof remaining assised of record in the court of our said lord the king, before the king himself, at Westminster aforesaid, amongst other things, more fully appears: And the said Robert says, that he the said Robert is not yet satisfied the said thirty-four pounds, the damages aforesaid or any part thereof: And the said Robert further says, that the said John, after the giving of the said last-mentioned judgment, and before the day of exhibiting the bill of the said Robert, to wit, on, &c. in the twenty-seventh year of, &c. divers goods and chattels which were of the said R. L. at the time of her death, to the value of the aforesaid thirty-four pounds, the damages aforesaid remaining unsatisfied, came to the hands of the said John to be administered, sold, wasted, aliened, and converted and disposed of to his own use, by reason whereof an action hath accrued to the said Robert to demand and have of and from the said John the said sum of thirty-four pounds above demanded; yet, &c. (Common conclusion in debt.)

Drawn by MR. GRAHAM.

Easter Term, 26. Geo. III.

MIDDLESEX, to wit. Michael Topping complains of Edward Ryan being, &c. of a plea that he render to him six hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c.; for that whereas the said Michael, in Easter term, in the twenty-fifth year of the reign of our sovereign lord the now king, in the court of our said lord the king, before the king himself, the same court then and still being held at Westminster, in the said county of Middlesex, by the term of our said lord the now king, and by the consideration and judgment of the same court, recovered against the said Edward six hundred pounds for his damages which he had sustained as well by reason and means of the not performing of certain promises and undertakings before that time made by the said Edward to the said Michael, as for his costs and charges by him about his suit in that behalf expended, whereof the said Edward is convicted, the record and process of which said judgment so as aforesaid recovered, with all things touching the same, afterwards, on, &c. in the twenty-fifth year of the reign of the said lord the now king, by virtue

Declaration in debt on a judgment in B. R. in an action of assumpsit by original and writ of error into the House of Lords, where judgment affirmed with forty pounds costs, part having been levied by fieri facias.

of a certain writ of our said lord the now king for correcting errors, directed to the said lord the king's right trusty and beloved William earl of Mansfield, chief justice of our said lord the king, appointed to hold pleas before the king himself at the petition of the said Edward, was sent and had before our said lord the king in his parliament, and such proceedings were there had before our said lord the king in his parliament at Westminster, in the said county of Middlesex, that afterwards, to wit, &c. in the twenty-fifth year of the reign of our said lord the king, it was considered by the said court of parliament that the said Edward should be in mercy, because he had not further prosecuted his said writ for correcting errors with effect, and that the said Michael should recover against the said Edward forty pounds adjudged to the said Michael by the same court of parliament for the damages, costs, and charges which he had sustained by reason of the delay of the execution of the judgment aforesaid, for that the said Edward had not further prosecuted his said writ of error, and thereupon the said record, and also the process had in the said court of parliament, were sent back to the said court of our said lord the king, before the king himself, to the end that execution might be done thereupon, as by the record and proceedings aforesaid is admitted unto the said court of our said lord the king, before the king himself, at Westminster aforesaid, and there remaining, fully appears: And the said Michael further says, that after remission of the said record and proceedings aforesaid, and the rendition of the last-mentioned judgment, and whilst the same was in full force and effect, to wit, on, &c. in the twenty-fifth year of the reign aforesaid, he the said Michael, for the obtaining of the said damages, costs, and charges so as aforesaid recovered, and by the several judgments, sued out a certain writ of our said lord the king of *testatum fieri facias* out of the said court of our said lord the king, before the king himself (the said Michael then and there being at Westminster aforesaid), directed to the sheriff of Middlesex, by which said writ our said lord the king commanded the said sheriff that of the goods and chattels of the said Edward in his bailiwick he should cause to be made the several sums of six hundred pounds and forty pounds so adjudged to the said Michael in form aforesaid, for his said damages, costs, and charges, and that he should have that money before our said lord the king in fifteen days of the Holy Trinity, whereof the said Michael &c. to render to the said Michael for his damages, costs, and charges aforesaid; and that he should have there then that sum which said writ afterwards, and before the return thereof, to wit, on, &c. in the twenty-fifth year of the reign aforesaid, was delivered to J. B. esquire and J. H. esquire, then sheriff of the county of Middlesex, to be by them executed in due form of that is to say, at, &c. in, &c.; to which said writ the said Michael afterwards and at the return of the said writ, to wit, in fifteen days of the Holy Trinity, in the twenty-fifth year of the reign of our said lord the now king, returned to the said court of our

lord the king, before the king himself, at Westminster aforesaid, that he had caused to be made of the goods and chattels of the said Edward in his bailiwick forty-five pounds, which money he had paid to the said Michael in satisfaction of so much of the damages in the said writ mentioned, and that the said Edward had not any other or more goods in his said bailiwick whereof he could cause to be made the residue of the damages in the said writ mentioned, or any part thereof: And the said plaintiff in fact further saith, that the said plaintiff hath not since obtained any further execution of the said several judgments or either of them, but that the said several judgments as to the residue of the said several sums of money so recovered by reason of the said several judgments still remain, and each of them still remains in full force and virtue, and is no wise reversed, vacated, annulled, paid off, satisfied, or discharged, by reason whereof an action hath accrued to the said Michael to demand and have of and from the said Edward the said sum of six hundred pounds above demanded, being the residue of the said several sums of six hundred pounds and forty-five pounds, amounting in the whole to six hundred and forty-five pounds so as aforesaid recovered by the said Michael upon and by virtue of the said several judgments above-mentioned; yet the said defendant hath not rendered the said sum of six hundred pounds or any part thereof to the said Michael, although often requested so to do, but to render, &c. Damages, &c.

G. Wood.

Trinity Term, 27. Geo. III.

MONTGOMERYSHIRE, to wit. Richard Evans complains of John Wortington of a plea that he render to the said John ten pounds of, &c. which he owes to and unjustly demands from him, &c.; for that whereas the said Richard heretofore, that is to say, at the court baron of sir W. W. Wynne, bart. and for the manor of A. in the said county of M. and within the jurisdiction of the same court, on Monday the second of October 1786, and in the twenty-sixth year of the reign of our sovereign lord the now king, before A. D. steward of the said court, and C. D. &c. then free suitors of the said court, came in his proper person and then and there in the said court according to the custom of the said court levied his plaint against the said John in a plea of trespass on the case, to the said Richard his damage of thirty-one shillings and elevenpence, and for a certain cause of action happening and arising to the said Richard against the said John, within the jurisdiction of the said court, and then and there bound pledges to prosecute his said plaint, to wit, John Doe and Richard Roe, and such proceedings were thereupon had in the said plea of the said plaint, that afterwards, at the said court baron of the said sir W. W. Wynne, bart. held in and for the said manor, and within the jurisdiction of the said court, on, &c. and

Declaration by
debt on a judg-
ment recovered
in a court ba-
ron.

in the twenty-seventh year of, &c. before the said A. D. steward of the said court, and C. D. &c. then and there free suitors of the said court, the said Richard then and there by the consideration and judgment did recover in the said plea of the said plaintiff against the said John as well the sum of seven pounds for his damages by him sustained by reason of the not performing certain promises and undertakings before that time made by the said John to the said Richard, as also two pounds nineteen shillings for his costs and charges by him about his suit in that behalf expended, which said damages, costs, and charges, amount together in the whole to the sum of three pounds six shillings, whereof the said John was convicted, as by the memorandums and proceedings of the said court there remaining in the said court baron of the said sir W. W. Wynne more fully and at large appears; which said judgment still remains in its full force and effect, not in the least reversed, vacated, set aside, annulled, or satisfied, and the said Richard has not as yet obtained any execution of the said judgment in form aforesaid recovered, whereby an action hath accrued to the said Richard to demand and have of and from the said John the said sum of three pounds six shillings, parcel of the said ten pounds above demanded. (Add a second Count on a *mutatus* for six pounds fourteen shillings; and a common breach.)

Drawn by MR GRAHAM.

(a) Declaration
in debt on judgment
against the bail.

MIDDLESEX, to wit. Thomas Parke and George Jameson complain of Thomas Bradshaw being, &c. in a plea that he render to the said T. P. and G. J. ninety-nine pounds ten shillings of lawful money of Great Britain, which he owes to and unjustly detains from them, &c.; for that whereas the said T. P. and G. J. heretofore, to wit, in Easter term, in the twenty-fourth year of the reign of our lord the now king, in the court of our said lord the now king, before the king himself here, to wit, at Westminster, in the said county of Middlesex, by bill without his majesty's writ, and by the said judgment of the said court recovered against one T. R. ninety-nine pounds ten shillings for their damages which they had sustained as well by reason of the not performing certain promises and undertakings thencefore made by him the said T. R. to them the said T. P. and G. J. as for their costs and charges by them about their suit in that behalf expended, whereof the said T. R. was convicted, as by the record and proceedings of the said judgment now remaining in the said court here, to wit, at Westminster aforesaid, fully appears: And whereas the said T. B. heretofore, and whilst the said suit between the said T. P. and G. J. and the said T. R. was depending in the said court here, that is to say, in Easter term, in the twenty-fourth year aforesaid, came into the same court at Westminster in the said county of Middlesex, in his own proper person, and then and there in the same court became pledge and bail for the said T. R. in the

(a) This is Debt on Recognizance of Bail. See Recognizances, ante.

said

said action or suit, in manner and to the effect following, to wit, that if it should happen that the said T. R. should be condemned in the plea aforesaid, then he the said T. B. as such bail as aforesaid, did consent and agree to pay all such damages which should be adjudged to the said T. P. and G. J. in that suit, to be made and levied of his lands and chattels to the use and behoof of the said T. P. and G. J. if it should happen that the said T. R. should not pay the said damages to the said T. P. and G. J. nor render himself to the marshal of the marshalsea of our said lord the king, before the king himself on that occasion, as by the record of the said recognizance remaining in the said court here, to wit, at Westminster aforesaid, fully appears; which said recognizance, together with the said judgment so recovered by the said T. P. and G. J. as aforesaid, is and are in full force and effect, in no ways reversed, annulled, or set aside, nor have the said T. P. and G. J. as yet obtained execution of or upon the same or either of them, nor hath the said T. R. as yet paid to them the said T. P. and G. J. or to either of them the said damages so to them adjudged as aforesaid, or any part thereof, nor rendered himself to the custody of the marshal of the marshalsea of our said lord the king, before the king himself on that occasion, but the said damages are still wholly unpaid and unsatisfied, whereby an action hath accrued to the said T. J. and G. P. to demand and have of and from the said T. B. the said ninety-nine pounds ten shillings above demanded, according to the force, form, and effect of the aforesaid recognizance; yet the said T. B. although often requested, hath not yet paid the said ninety-nine pounds ten shillings or any part thereof to the said T. P. and G. J. or either of them, but he so to do hath hitherto wholly refused, and still refuses so to do, to the damage of the said T. P. and G. J. of twenty pounds; and therefore they bring their suit, &c.

V. LAWES.

WATCOTT } AND the said T. H. by A. B. his attorney, Plea (to a declaration of a suit of) comes and defends the wrong and injury, when, &c. that after the obtaining of the judgment, and before the exhibiting the bill of plaintiff, he sued out an *elegit*.
HUNDLE. } and says, that the said Joseph ought not to have or maintain his aforesaid action thereof against him; because he says, that after the rendition of the said judgment, and before the exhibiting the bill of the said plaintiff, to wit, on, &c. in the twentieth year of the reign of, &c. the said Joseph came into the said court of our said lord the now king, before the king himself, at Westminster, in the county of Middlesex, and according to the tenor of the statute in such case made and provided, chose to have delivered to him all the goods and chattels which were of the said T. H. except his oxen and beasts of his plough, and also a moiety of his lands and tenements of which the said T. H. at the time of rendering the said judgment or at any time afterwards, was seised, have and to hold the said goods and chattels as his proper goods and tenements, and also to hold the said moiety of the said lands and tenements aforesaid as his freehold to him and his assigns by a reasonable price

price or extent until the aforesaid Joseph should have recovered the damages in the said judgment mentioned, according to the form of the statute in such case made and provided, whereupon by a certain writ of our said lord the king of *elegit* it was then and there commanded by the said court to the then sheriff of Middlesex, that he should cause to be delivered all the goods and chattels which were of the said T. H. in his bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements in his bailiwick of which the said T. H. at the time of the rendition of the said judgment or at any time afterwards, was seised, at a reasonable price or extent, to have and to hold the said goods and chattels as his proper goods and chattels, and also to hold a moiety of the said lands and tenements as of his freehold to him and his assigns until the said Joseph should have levied his damages aforesaid, and in what manner the said then sheriff should execute that writ, he the said then sheriff should make appear to our said lord the king at Westminster, on, &c. under his seal or the seals of those by whose oath should have been made such extent and appraisement, and that the said then sheriff should have there then the names of those by whose oath he should make the said appraisement, and that writ, which said writ the said Joseph afterwards, and before the return thereof, to wit, on, &c. in the twenty-ninth, &c. delivered to the said then sheriff of the said county of Middlesex, in due form of law to be executed, by which said writ afterwards, by a certain inquisition taken at Westminster, in the said county of Middlesex, on, &c. in the twenty-ninth year aforesaid, before the said sheriff, by the oath of twelve good and lawful men of his bailiwick, it was found that the said T. H. on the day of taking the said inquisition, was possessed of divers goods and chattels in the said inquisition mentioned of the value of ten pounds; and that the said T. H. on the day of taking the said inquisition, was seised of one messuage, likewise mentioned in the said inquisition, and that the said sheriff delivered the said goods and chattels in the said inquisition mentioned, and the moiety of the said lands and tenements in the said inquisition also mentioned, on the day of taking the said inquisition, to the said Joseph by a reasonable price and extent, to have and to hold the said goods and chattels as his own proper goods and chattels, and also to hold the moiety of the said lands and tenements as his freehold to him and his assigns, until he the said Joseph should have fully levied the damages aforesaid, according to the exigency of the said writ; and this, &c.; wherefore, &c. if, &c.

W. BALDWIN.

Replication to
the last plea.

And the said Joseph says, that he by any thing by the said Thomas above in pleading alledged ought not to be barred from having and maintaining his aforesaid action thereof against the said Thomas; because protesting that he the said Joseph did not come into the said court of our said lord the king, before the king himself, at Westminster, in the said county of Middlesex, and according

ing to the form of the statute in such case made and provided
 chuse to have delivered to him all the goods and cattels which
 were of the said T. H. except the oxen and beasts chis plough,
 and also a moiety of his lands of which the said T. Hat the time
 of rendering the said judgment or any day afterwards was seised,
 to have and to hold the said goods and chattels as his proper goods
 and chattels, and also to hold the said moiety of the land and tene-
 ments afore said as his freehold to him and his assigns } a reason-
 able price or extent until the afore said Joseph could have levied the
 damages in the said judgment mentioned, according to the form
 of the statute in such case made and provided, as the said T. H.
 hath above in his said plea alledged; protesting also, that no such
 writ of our lord the king of *elegit* issued, as in the said plea of the
 said T. H. is alledged; protesting also, that the said T. H. did not
 deliver any such writ to the said then sheriff of the said county of
 Middlesex in due form of law to be executed, as the said T. H.
 hath in pleading alledged; protesting also, that no such inquisition
 was taken as in the said plea is alledged; for replication in this be-
 half the said Joseph says, that the said sheriff did not deliver the
 said goods and chattels in the said inquisition mentioned, and the
 moiety of the said lands and tenements in the said inquisition also
 mentioned, on the day of taking the said inquisition, to the said
 Joseph by a reasonable price and extent, to have and to hold the
 said goods and chattels as his own proper goods and chattels, and
 also to hold the moiety of the said lands and tenements } his free-
 hold to him and his assigns until the said Joseph should have fully
 levied the debt and damages afore said, in manner and form as the
 said T. H. hath above in pleading alledged; and thus the said
 Joseph prays may be enquired of by the country. &c.

SURRY, to wit. Ann Smith complains of Mary Isles, ad-
 ministratrix of all and singular the goods and chattels, rights and
 credits, which were of Thomas Isles, deceased, at the time of his
 death, who died intestate, being in the custody of, &c. in a plea
 that she render to the said Ann five pounds of lawful money of
 Great Britain, which she unjustly detains from her the said Ann,
 &c.; for that the said T. I. in his lifetime, to wit, at the court of re-
 cord of our lord the now king of his palace of Westminster held
 at Southwark, in the county of Surry afore said, and within the
 jurisdiction of the said court, on, &c. in the year of the reign
 of our said lord the now king, William earl Talbot, steward of
 the king's household, sir Philip Meadows, knight, the marshal
 of the said household, and Lovett Blackburn, then steward of the
 said court, then judges of the court afore said, by virtue of the let-
 tern patent of Charles the Second, late king of England &c. bear-
 ing date at Westminster the fourth day of October, in the fifteenth
 year of his reign, came in his own proper person, at then and
 there in the said court levied his plaint against the said Ann in a
 certain

Declaration in
 debt against ad-
 ministratrix, in
 a suit in the
 palace court, for
 costs of nonsuit
 of defendant's
 testator.

Vide 8. Eliz. c.
 2.

Vide 1. Will.
 376. for a still
 more concise,
 and perhaps a
 better form than
 this.

certain plea to wit, a plea of trespass on the case, to the damage of the said T. I. of ninety-nine shillings, and then and there for pledges for the prosecution of his said plaint, to wit, John I. and Richard Roe, and such proceedings were had on the said plaint in the said court that afterwards, in the lifetime of the said T. I. to wit, at the court of the king's palace aforesaid held at aforesaid, in the said county of S. and within the jurisdiction of the said court, on, &c. in the twentieth year of the reign of, &c. before the said judges of the said court, it was considered by the said court there that the said T. I. should take nothing by the said plaint, but that for his false clamour therein he should be at men's charges &c. and that the said Ann should go thereupon without day, &c. and it was also considered by the said court there, that the said Ann should recover against the said T. I. five pounds for her costs and charges by her about her defence in that behalf sustained by the said Ann, at her request adjudged by the same court there, according to the form of the statute in such case made and provided, and that the said Ann should have her execution thereon, &c. by the record and proceedings thereon remaining in the said court of the king's palace aforesaid, at S. aforesaid, in the county of S. aforesaid, reference being thereto had, will more fully and at large appear, which said judgment remains in its full force, strength and effect not in the least reversed, paid off, or satisfied, nor the said Ann as yet obtained any execution of the same against the said T. I. in his lifetime, or against the said Mary administratrix as aforesaid, since his death, by means whereof action has accrued to the said Ann to demand and have of the said Mary, as administratrix as aforesaid, the said five pounds above demanded; yet the said Mary, administratrix aforesaid, although often requested, hath not as yet rendered the said five pounds above demanded or any part thereof to the said Ann, but she to render the same or any part thereof to the said Ann hath hitherto wholly refused, and still refuses so to do, to the said Annier damage of ten pounds, &c.

V. LAWES

Declaration on a judgment recovered by three plaintiffs, one of whom afterwards became a bankrupt, at the suit of the other two plaintiffs, and the bankrupt's assignees.

LONDON, to wit. Joseph Moreing, Philip Morgan, Isaac Wylde, Samuel Eaton, and William Haines, which said J. S. E. and W. H. are assignees of the state and effects of William Payne, a bankrupt, according to the force, form, and effect of the several statutes made and now in force concerning bankrupts, complain of Stephen Sayer, esquire, William Lee, esquire, William Owen, George Good, John Richard Winstanley, and Benjamin Petre, being in the custody of, &c. of a plea that they render to the said J. M. &c. &c. and to the J. W. S. E. and W. H. as assignees as aforesaid eighty-three pounds ten shillings of lawful money, &c. which they owe to and unjustly detain from the said plaintiffs for that whereas the said J. M. and P. M. and the said William Payne

Payne, before he so became a bankrupt, to wit, in Hilary term, in the fifteenth year of, &c. in the court of our said lord the king, before the king himself, the said court then and ill being held at Westminster, in the county of Middlesex, by re consideration and judgment of the said court recovered against the said S. S. W. L. &c. &c. by the names of, &c. seventeen pounds seventeen shillings, as also forty shillings, which were therand there in the said court adjudged to the said J. M. &c. &c. ad W. P. before he so became a bankrupt, as well for their damages which they had sustained on occasion of the committing of a certain trespass against the said J. M. P. M. and G. P. before he became a bankrupt, as for their costs and charges by them laid out about their suit in that behalf, whereof the said S. S. &c. were convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the king himself, at Westminster aforesaid, more fully appears, which said judgment still remains in the said court in full force, strength, and effect, not in the least reversed, paid off, or satisfied, annulled or discontinued; and the said J. M. G. M. and W. P. before he became a bankrupt, did not, nor did any or either of them obtain, nor have they the said J. M. and P. M. and the said J. W. S. E. and W. H. assignees as aforesaid, nor had he, nor hath any or either of them at any time since the said G. P. became a bankrupt hitherto obtained any execution of the aforesaid judgment recovered in form aforesaid; whereby an action hath accrued to the said J. M. and P. M. in their own right and to the said J. W. S. E. and W. H. assignees as aforesaid, to demand and have of and from the said S. S. &c. the said eighty-three pounds ten shillings above demanded, to wit, the damages and costs aforesaid, in form aforesaid recovered; yet the said S. S. &c. although often requested, have not, nor have, nor hath any or either of them yet rendered the said eighty-three pounds ten shillings above demanded or any part thereof to the said J. M. P. M. the said J. W. &c. or to any or either of them, but they to render the same or any part thereof to them or any or either of them have, and each of them hath hitherto wholly refused and will refuse, to the said J. M. and P. M. and to the said J. W. S. E. and W. H. assignees as aforesaid, their damage of eleven pounds; and, &c.

Whether the venue in this of the judgment upon which the action is
 may be laid in London, the record brought being kept at Westminster.

HERRY, to wit. N. W. complains of E. B. being, &c. in a Declaration on a
 that he render to him the said plaintiff ten pounds of lawful, judgment in the
 which he owes, &c.; for that whereas at the court of record palace court.
 the now king of his palace of Westminster holden at
 mark, in the said county of Surry, and within the jurisdic-
 the said court, on, &c. in the twenty-second year of the
 &c. before William earl Talbot, then steward of the king's
 household, sir Sidney Meadows, knight, then marshal of the said
 household,

household, and Danby Pickering, esquire, then steward of the said court, then judges of the said court, by virtue of the letters patent of Charles the Second, late king of, &c. bearing date at Westminster the forth day of, &c. in the fifteenth year of, &c. came the said plaintiff in his own proper person, and then and there in the said court levied his certain plaint against the said defendant in a certain plea of trespass on the case, to the damage of the said plaintiff of pounds, for a certain cause of action happening and arising to the said plaintiff against the said E. within the jurisdiction of the said court, and then and there found pledges for the prosecution of the said plaint, to wit, J. D. and R. R. and such proceedings were afterwards had in the said court upon the said plaint, that afterwards, to wit, at the said court of our said lord the king of his place of Westminster held at S. aforesaid, in the said county of S. and within the jurisdiction of the said court, on, &c. in the twenty-second year, &c. before the said judges of the said court, the said plaintiff by the consideration and judgment of the said court recovered against the said defendant the said ten pounds above demanded, which in and by the said court of our said lord the king of his palace of Westminster holden at S. aforesaid, were adjudged to the said plaintiff for his damages which he had sustained, as well by reason of not performing certain promises and undertakings theretofore made by the said defendant to the said plaintiff within the jurisdiction of the said court, as for his costs and charges by him about his suit in that behalf expended, whereof the said E. was convicted, as by the record and proceeding thereof remaining of record in the said court of, &c. holden at, &c. more fully appears; which said judgment still remains in full force &c. and not in any wise reversed, &c. and the said plaintiff had not as yet obtained any execution of the same; whereby an action hath, &c.; yet, &c. [common conclusion in debt.]

V. LAWES.

Declaration in debt in an hundred court for the costs of a judgment of *non pros.* for not entering the summons in the said court.

Vide Murray v. Wilson, 2. Will. 316.

HUNDRED COURT OF H. IN THE COUNTY OF WARWICK. Charles Johnson, by A. B. his attorney, complains of Edward Harris, in a plea that he render to the said plaintiff fifteen pounds of, &c. which he owes to and unjustly detains from him, &c. for that whereas the said plaintiff in the court of H. J. in his hundred of H. in the county of W. *holden by adjournment* at, &c. on, &c. in the said hundred, and within the jurisdiction of this court, on, &c. before H. G. then and still steward of the said court, by the consideration of the said court, recovered against the said defendant four pound eight shilling, which in and by the said court were then and there adjudged to the said plaintiff, with his assent, for his costs in a certain plaint before then levied and brought by the said defendant in the said court of the hundred of H. in the county of W. against the said plaintiff in a certain plea of trespass on the case; so that the said defendant had not and did not, *either at the said hundred court held the twenty-eighth of May 1783, or on the said*

fift.

5th of June 1783, at such adjourned court as aforesaid, according to the course and practice of the said court, enter a certain summons before then issued out of the said court, as by the course and practice of the said court he ought to have done, but neglected so to do, whereof the said defendant was convicted, as by the memorandum and proceedings thereof remaining in the said court here more fully appears; which said judgment still remains in its full force, strength, and effect, in no manner reversed; vacated, set aside, or satisfied, nor had the said plaintiff obtained any execution of the same (*per quod actio accrevit*), to demand four pounds eight shillings, parcel, &c. [A 2d Count same as first, only omitting what is in *Italic*; a 3d Count as upon a general nonsuit, *i. e.* for that defendant did not further prosecute his said plaint but became nonsuit therein, whereof defendant was convicted; another Count on a *mutualis*.]



V. LAWES.

SAINT CHRISTOPHER's, to wit. In the court of king's bench and common pleas held in and for the said island of Saint Christopher, ——— Montague, esquire, was summoned to answer Hubert Guichard Mercer, of a plea that he the said Montague render to the said Hubert Guichard Mercer the sum of eighty-six thousand eight hundred and fifty-four pounds two shillings and sixpence sterling and lawful money of Great Britain, which he owes to and unjustly detains from him, and so forth, and whereupon the said Hubert Guichard Mercer, by A. B. his attorney, complains; for that whereas before the making the decree and report hereafter next mentioned and set forth, a certain suit had been instituted by the said Hubert Guichard against the said Montague in the court of chancery of our sovereign lord the now king holden at Westminster, in the county of Middlesex, within and for his kingdom of Great Britain, before his lord high chancellor of the said kingdom, to wit, at the parish of St. George Basseterre, in the said island of St. Christopher, aforesaid, and such proceedings were thereupon had in the said suit that afterwards, and whilst the same was depending in the said court of chancery of our said lord the king, to wit, on Saturday the twenty ninth day of January, in the twentieth year of the reign of our said lord the king at Westminster, in the county of Middlesex aforesaid, to wit, at the parish of St. George Basseterre aforesaid, in the said island of Saint Christopher aforesaid, it was by a certain decree then and there made in the said suit declared by the said court, that a certain settlement of accounts, bearing date the thirtieth day of June 1769, and a certain release of the fourteenth day of June 1769, ought to be set aside, and the said court did then and there order and decree the same accordingly, and that it should be referred to Mr. Graves, one of the masters of that court, to take an account of the personal estate of one Hubert Guichard (therein being and being called the testator) come to the

Debt for a sum of money decreed by the lord high chancellor to be due to plaintiff.

the hands of the said Montague the defendant, his only acting executor, or to the hands of any other person or persons by his order or for his use; and the said master was also to take an account of the debts, funeral expences, and legacies of the said testator, and to compute interest on such of his debts as carried interest, and as respectively carried interest on his legacies from the end of one year after the death of the said testator, after the rate of four pounds *per cent. per annum*, unless any other rate of interest at the time of payment was limited by his will, and in that case according to his will: And it was ordered by the said court, that the personal estate of the said testator should be applied in payment of his debts, funeral expences, and legacies in a course of administration; and it was also ordered and decreed by the said court, that the said master should take an account of the rents, profits, and produce of the said testator's estates and plantation in the island of St. Christopher, accrued since the death of the said testator, during the minority of the said Hubert Guichard Mercer, the plaintiff in that suit, received by the said Montague, or by any other person or persons by his order or for his use; and the master should also take an account of all sums of money paid by the said Montague for the maintenance and education of the said Hubert Guichard Mercer, or any how otherwise to or for his use or benefit during his minority, but that court did declare that in taking the aforesaid accounts the said Montague was not to be allowed the sums of two thousand nine hundred and seventy-one pounds and eight-pence halfpenny, and one hundred and sixty-one pounds and eightpence mentioned in the pleadings of the cause; and the said court did order, that one moiety of the clear residue of the said testator's personal estate, and also of what should be coming on the account of rents, profit, and produce of his said estates in the island of St. Christopher after a deduction and allowance to the said Montague of what under the direction aforesaid should appear to have been paid by him for the maintenance and education or to and for the use and benefit of the said Hubert Guichard Mercer, during his minority, or so much thereof as should appear to be remaining due to the said Hubert Guichard Mercer, should be paid by the said Montague to the said Hubert Guichard Mercer, together with interest for the same, to be computed by the said master after the rate of four pounds *per cent. per annum*, from the thirteenth day of June 1769; and it was ordered by the said court, that the said master should enquire whether the said Montague, from the death of the said testator to the said thirteenth day of June 1769, had made any, and what interest of the said Hubert Guichard Mercer of the clear residue of the said testator's personal estate, and of his moiety of the rents, profits, and produce of the said testator's estate and plantations at St. Christopher; and it was also ordered by the said court, that the said Montague should pay such interest to the said Hubert Guichard Mercer, and that court did declare that certain articles of agreement of the fourteenth day of June 1769, for partition of the estates therein mentioned,

tioned, and a certain conveyance of the twenty-ninth day of August following made in pursuance thereof ought to be set aside as unduly obtained, but the said H. G. Mercer, submitting to acquiesce in the partition of the said estate, in and by the said articles and conveyance agreed upon on the terms in the said decree aforementioned, it was ordered by the said court, that the said master should enquire into and ascertain the real value of the estates allotted by the said articles and conveyance to the said H. G. Mercer and Montague respectively at the time of the date of the said articles; and if it should appear that the estates thereby allotted to the said Montague were of equal value to the estates thereby allotted to the said H. G. Mercer, or were of greater value, it was ordered by the said court, that the said Montague should refund to the said H. G. Mercer the sum of one thousand three hundred sixty pounds paid by him as the difference in value between the said estates, together with interest for the same, to be computed by the said master after the rate of five *per cent. per annum* from the date of the said articles; and in case the said master should find the estates allotted to the said Montague at the time aforesaid were of greater value than the estates allotted to the said H. G. Mercer, it was ordered by the said court, that the said Montague should pay to the said H. G. Mercer the difference of such value, with interest for the same, to be computed by the said master aforesaid after the rate and from the time aforesaid; and for the better taking accounts and discovery of matters aforesaid, the parties were to be examined upon interrogatories, and produce the said master upon oath all books, papers, and writings relating thereto, as the said master should direct, who in taking the said accounts was to make unto the parties all just allowances; and it was ordered by the said court, that the said Montague should pay unto the said H. G. Mercer his costs of that suit to the time of making the said decree, to be taxed by the said master; and the said court did reserve the consideration of the subsequent costs of that suit until after the said master should have made his report and either side was to be at liberty to apply to the court as there should be occasion, as by the said decree and report duly enrolled by the said court of chancery of our said lord the king at Westminster, in the county of Middlesex, and now there remaining, relation being thereunto had, will amongst other things more fully and at large appear: And whereas after the making of the said decree, and whilst the said suit was so as aforesaid depending in the said court, to wit, on the twenty-first day of December, in the year of Our Lord 1781, at Westminster, in the county of Middlesex aforesaid, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid; the said master, in pursuance of the said decree, did make his report in writing to the said court of and concerning the several matters so as aforesaid to him referred, and did thereby then and there certify and submit to the said court, that in pursuance of the said decree had in the presence of the solicitors for the said H. G. Mercer and Montague, the plaintiff and

defendant in that suit, considered of the several matters by the said decree referred to him, and that he had proceeded to take an account of the personal estate of the said H. G. the testator, which came to the hands of the said Montague, the only acting executor of the said testator, or to the hands of any other person or persons by his order, or for his use, and also an account of the debts, funeral expences, and legacies of the said testator; and the said master by his report found that the said Montague, as the acting executor of the said testator, or some other person or persons by his order, or for his use had received for and on account of the personal estate of the said testator the several sums of money, set forth in the first schedule to that his report annexed, amounting together to the sum of one thousand two hundred and eighty-four pounds four shillings and ninepence current money of the island of St. Christopher, which sum of one thousand two hundred and eighty-four pounds four shillings and ninepence currency, at fifty-five *per cent.* the current rate of exchange at the time such sums were received, amounted to the sum of eight hundred and twenty-eight pounds ten shillings and ninepence halfpenny sterling, and the said master by his said report found that the said Montague had received of Messrs. Freeman, Douglas, and Co. the sum of six thousand and fourteen pounds sterling, being the balance of their account, after deducting the sum of five pounds one shilling paid by them to Mr. Farrar for the probate of the said testator's will; and the said master by his said report also found that the said Montague had received the sum of five hundred pound sterling of William Phipps, being the principal money due on his bond to the said testator, which said sums of eight hundred and twenty-eight pounds ten shillings and ninepence halfpenny, six thousand and fourteen pounds, and five hundred pounds amount together to the sum of seven thousand three hundred and forty-two pounds ten shillings and ninepence halfpenny sterling, with which the said master by his said report certified to the said court that he had charged the said Montague, in discharge whereof the said master found that the said Montague had paid, expended, and disbursed in discharge of debts due and owing by the said testator of his funeral expences, of a legacy given by his will, and otherwise of account of the said testator's personal estate, the several sums of money mentioned and set forth in the second schedule annexed to that his report, amounting in the whole to the sum of four thousand nine hundred and thirty-eight pounds eighteen shillings current money of the island of St. Christopher, which sum of four thousand nine hundred and thirty-eight pounds eighteen shilling currency, at fifty-five *per cent.* the rate of exchange at the time such payments were made, amounted to the sum of three thousand one hundred and eighty-six pounds seven shillings and eightpence three farthings sterling, of which the said master by his said report further certified to the said court that he had made the said Montague an allowance; and the said sum of three thousand one hundred and eighty-six pounds seven shillings and eightpence three farthing sterling

ing being deducted from the sum of seven thousand three hundred and forty-two pounds ten shillings and ninepence farthing sterling, with which the said master had charged the said tague as thereinbefore mentioned, there remained in his hands a balance of account of the said testator's personal estate, the sum of four thousand one hundred and fifty-six pounds three shillings and three farthings sterling, and in order to see whether any debts due from the said testator at the time of his death were remaining unsatisfied, the said master by his said report further certified to the said court that he had caused two several advertisements to be published in the London Gazette, for the credit of the said Hubart Guichard, the testator, to come before him to prove their debts, by a time by the latter of the said advertisements peremptorily limited, and at the time making the said report, but that no debt had been proved or claimed before him in consequence of such advertisements, nor did any thing appear to him to be then due and owing from the said testator's estate on account of his debts, funeral expences, or legacies, except a legacy of one thousand pounds to Mary Mercer, the said testator's sister, whereon it was agreed that the interest should be regularly paid unto the second day of August then last, by the said H. G. Mercer and Montague, and the principal of said legacy, by agreement between the said H. G. Mercer and Montague, as stated in the pleading of that cause, was also to be paid and paid in moieties by the said H. G. Mercer and Montague out of plantations divided between them respectively; and as to slaves, horses, cattle, mules, plantations, stores, and utensils, it was admitted that the same had been equally divided between the said H. G. Mercer and Montague, and appropriated accordingly to their respective plantations; and it being by the said report directed that one moiety of the clear residue of the said testator's personal estate should be paid by the said Montague to the said H. G. Mercer, together with interest for the same, to be paid at the rate of four *per cent. per annum*, from the thirteenth day of June 1769; and the said balance of four thousand one hundred and fifty-six pounds three shillings and three farthings appearing to constitute the clear residue of the said testator's personal estate received by the said Montague as aforesaid, the said master by his said report further certified to the said court that he had computed interest at the rate of four pounds *per cent.* *per annum* on the sum of two thousand and seventy-eight pounds one shilling and sixpence farthing sterling, being one moiety of the clear residue from the said thirteenth day of June 1769, to the date of that his report, being twelve years, six months, and ten days, and that such interest amounted to the sum of one hundred and forty pounds seventeen shillings and one farthing, and the said sum of one thousand and forty pounds seventeen shillings and one farthing being added to the before mentioned sum of two thousand and seventy-eight pounds one shilling and sixpence farthing, they made together the sum of three thousand one hundred

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hundred and eighteen pounds eighteen shillings and sixpence penny sterling: And the said master by his said report certified the said court that he had proceeded to take an account of the profits, and produce of the said testator's estates and plantations in the island of St. Christopher accrued since the death of the said testator during the minority of the said H. G. Mercer, received by the said Montague, or by any other person or persons by order, or for his use: And the said master by his said report certified that the said Montague or some other person or persons by order, or for his use had received an account of the rents, profits, and produce of the said testator's estates and plantations, the several sums of money mentioned and set forth in the said schedule annexed to his report, amounting in the whole to the sum of twelve thousand four hundred and fourteen pounds eighteen shillings and sevenpence halfpenny sterling, whereout the said master found that the said Montague had paid the several sums of money mentioned and set forth in the fourth schedule to that his report annexed, amounting together to the sum of five hundred and seven pounds eight shillings and one penny farthing sterling, the said sum of five hundred and twenty-seven pounds eight shillings and one penny farthing being deducted from the before-mentioned sum of twelve thousand four hundred and fourteen pounds eighteen shillings and sevenpence halfpenny, reduced the same sum to eleven thousand eight hundred and eighty-seven pounds sixteen shillings and sixpence farthing sterling; one moiety of which sum of eleven thousand eight hundred and eighty-seven pounds sixteen shillings and sixpence farthing, being the sum of five thousand nine hundred and forty-three pounds fifteen shillings and three pence sterling belonged to the said H. G. Mercer, subject to a deduction of the payments in the said report after mentioned to have been made by the said Montague: And the said master by his said report further certified to the court, that he had proceeded to take an account of all sums of money paid by the said Montague for the maintenance and education of the said H. G. Mercer or otherwise to or for his use or benefit during his minority: And the said master by his said report found that the said Montague during the minority of the said H. G. Mercer, had paid for his maintenance and education, and otherwise to or for his use or benefit several sums of money mentioned and set forth in the fifth schedule annexed to that his report, amounting in the whole to the sum of three thousand five hundred and nine pounds seventeen shillings and three farthings sterling, which said sum of three thousand five hundred and nine pounds seventeen shillings and three farthings being deducted from the said sum of five thousand nine hundred and forty-three pounds fifteen shillings and three pence (the said H. G. Mercer's moiety of the rents, profits, and produce of the said testator's estates in the island of St. Christopher received by the said Montague, as in the said report before mentioned) there would be due to the said H. G. Mercer in respect of such rents, profits, and produce, the sum of two thousand four hundred and thirty

is eighteen shillings and twopence farthing sterling; on the said sum of two thousand four hundred and thirty-three shillings and twopence farthing the said master by his report further certified to the said court, that he had computed interest at the rate of four *per cent. per annum*, from the said day of June 1769, unto the date of that his report, being eleven years, six months, and eight days, and that such interest added to the sum of one thousand two hundred and nineteen pounds one shilling and sevenpence three farthings; and the said sum of one thousand two hundred and nineteen pounds one shilling and sevenpence three farthings being added to the before-mentioned sum of two thousand four hundred and thirty-three pounds eight shillings and twopence farthing, they made together the sum of two thousand six hundred and fifty-two pounds nineteen shillings and twopence sterling: And the said master by his said report further certified to the said court, that he had proceeded to enquire of the said Montague, from the death of the said testator to the thirteenth day of June 1769, had made any and what interest of the said H. G. Mercer's moiety of the clear residue of the testator's personal estate, and of his moiety of the rents, and produce of the said testator's estate and plantations at St. Christopher's; and the said master by his said report found that the said Montague had made interest of the sum of two thousand seven hundred and eighty pounds one shilling and sixpence farthing (the said H. G. Mercer's moiety of the clear residue of the testator's personal estate) at the rate of five *per cent. per annum* from the second day of August, A. D. 1758, to the said day of June 1769, being ten years, nine months, and ten days, which interest computed at the rate and for the time aforesaid amounted to the sum of one thousand one hundred and eighty-eight pounds eighteen shillings and twopence sterling: The said master by his report also found, that the several sums of money mentioned in the sixth schedule to that his report, and amounting together to the sum of one thousand and four hundred and eighty pounds eighteen shillings and one penny halfpenny sterling, reduced by the interest made by the said Montague on the said H. G. Mercer's moiety of the rents, profits, and produce of the said testator's said estates and plantations at St. Christopher's, remaining in his hands annually, from the death of the said testator unto the said thirteenth day of June 1769, which sum of one thousand and eighty pounds eighteen shillings and one penny halfpenny being added to the said sum of one thousand one hundred and twenty-eight pounds eighteen shillings and twopence, made together the sum of two thousand two hundred and ninety pounds sixteen shillings and threepence halfpenny sterling: And the said master by his report further certified to the said court, that he had proceeded to enquire into the real value of the estates of the said H. G. Mercer and Montague respectively by agreement of the fourteenth day of June 1769 for the sale of the estates therein mentioned, and the conveyance of

the twenty-ninth day of August following, made in pursuance thereof, in the said decree mentioned, at the time of the date of the said articles: And the said master by his said report found, from the evidence produced and read before him on behalf of the said H. G. Mercer, that the estates allotted to the said H. G. Mercer by the said articles and conveyance (and which estates the said Montague estimated and valued at the sum of fourteen thousand two hundred and seventy pounds), were on the fourteenth day of June 1769, the date of the said articles, really and truly worth no more than the sum of seven thousand eight hundred and four pounds ten shillings sterling: And the said master by his said report found, that the estates in and by the said articles of conveyance mentioned to have been allotted to the said Montague, were estimated and valued by the said Montague at the sum of eleven thousand five hundred and fifty pounds sterling; and as the said Montague had not attempted to prove that the said last-mentioned estates were overvalued, although he joined the said H. G. Mercer in a commission for the examination of, and did examine witnesses in the island of St. Christopher touching the value of the said estates, the said master by his report further certified and submitted to the said court, that he conceived that the estates allotted to the said Montague by the said articles of conveyance were on the said fourteenth day of June 1769, the date of the said articles, really and truly worth the said sum of eleven thousand five hundred and fifty pounds, so that the estates by the said articles allotted to the said Montague, were of greater value than the estates allotted to the said H. G. Mercer by the sum of three thousand seven hundred and forty-five pounds ten shillings; and therefore the said master by his said report further certified to the said court, that he had computed interest at the rate of five *per cent. per annum* on the sum of one thousand three hundred and sixty pounds in the said decree mentioned, to have been paid by the said H. G. Mercer as the difference in value between the said estates, to be refunded to the said H. G. Mercer, from the fourteenth day of June 1769, (the date of the said articles) unto the date of that his report, being twelve years, six months, and seven days, and that such interest amounted to the sum of eight hundred and fifty-one pounds six shillings, which being added to the said sum of one thousand three hundred and sixty pounds, they made together the sum of two thousand two hundred and eleven pounds six shillings sterling: And the said master by his said report further certified to the said court, that he had computed interest at the rate and for the time aforesaid on the sum of one thousand eight hundred and seventy-two pounds fifteen shillings, being one moiety of the sum of three thousand seven hundred and forty-five pounds eighteen shillings, the difference of the value of the estates allotted to the said Montague, and of the estates allotted to the said H. G. Mercer at the time aforesaid, and that such interest amounted to the sum of one thousand one hundred and seventy-two pounds five shillings and threepence, which being added to the said sum of one thousand

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eight hundred and seventy-two pounds fifteen shillings, they made together the sum of three thousand forty-five pounds and threepence sterling: And the said master by his said report further certified to the said court, that he had considered of the said H. G. Mercer's bill of costs of that suit to the time of pronouncing the decree in that cause amounting to the sum of three hundred and twenty-four pounds nine shillings and sevenpence, and that he had taxed the same at the sum of two hundred and thirty-seven pounds twelve shillings and tenpence, which said sum of two hundred and thirty-seven pounds twelve shillings and tenpence, and also the sum of three thousand one hundred and eighteen pounds eighteen shillings and sixpence halfpenny (the amount of the said H. G. Mercer's moiety of the balance of the said testator's personal estate, with the interest thereof, computed at the rate of four *per cent. per annum*, from the thirteenth day of June 1769, unto the date of that his report as thereinbefore mentioned) the sum of three thousand six hundred and fifty-two pounds nineteen shillings and tenpence, the amount of the said H. G. Mercer's moiety of the rents, profits, and produce of the said testator's estates in the island of St. Christopher received by the said Montague, with the interest, at the rate of four *per cent. per annum*, from the said thirteenth day of June 1769, unto the date of that his report as therein before mentioned, the sum of two thousand two hundred and nine pounds sixteen shillings and threepence halfpenny, the amount of the interest made by the said Montague of the said H. G. Mercer's moiety of the clear residue of the said testator's personal estate, and of his moiety of the rents, profits, and produce of the said testator's estate and plantations at St. Christopher's, the sum of two thousand two hundred and eleven pounds six shillings, the amount of the principal and interest of the sum paid by the said H. G. Mercer as the difference in value of the said estates, and to be refunded by the said H. G. Mercer, and the sum of three thousand and forty-five pounds and threepence (the amount of the principal and interest of the sum appearing to be the difference in the value of the estates shared to the said Montague, and of the estates allotted to the said H. G. Mercer), amounting in the whole to the sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, were to be paid by the said Montague to the said H. G. Mercer agreeably to the directions of the said decree, which said report was, after the making thereof, to wit, on the eighth day of March, in the year of Our Lord 1782, at Westminster, in the county of Middlesex aforesaid, duly and absolutely confirmed in and by the said court of chancery of our said lord the king, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, as by the said report so confirmed as aforesaid, and duly filed in the said court, and now then remaining, relation being thereunto had, will among other things more fully and at large appear, of all which said several matters the said Montague afterwards, to wit, on the day and year as aforesaid, at the parish of St. George Basseterre aforesaid,

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in the island of St. Christopher aforesaid, had notice : And the said H. G. Mercer in fact saith, that the said decree and report are still and each of them is in full force and effect, not in anywise reversed, annulled, set aside, or rendered void ; and the said H. G. Mercer hath not yet obtained execution thereupon for the said sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling thereby decreed and reported to be due and payable as aforesaid, or for any part thereof ; but that the said sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, and every part thereof, still remains and is still wholly due and unsatisfied to him the said H. G. Mercer, to wit, at the parish of St. George Basseterre aforesaid, at the island of St. Christopher aforesaid, whereby an action hath accrued to the said H. G. Mercer to demand and have of and from the said Montague the sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, parcel of the said sum of eighty-six thousand eight hundred and fifty-four pounds two shillings and sixpence sterling above demanded : And whereas before the making of the decree and report hereafter next mentioned and set forth, a certain other suit had been instituted by the said H. G. Mercer against the said Montague in the court of chancery of our sovereign lord the now king holden at Westminster, in the county of Middlesex aforesaid, within and for his kingdom of Great Britain, before the lord high chancellor of the said kingdom, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid ; and such proceedings were thereupon had in the said last-mentioned suit, that afterwards, and whilst the same was depending in the said court of chancery of our said lord the king, to wit, on Saturday the twenty-ninth day of January, in the twentieth year of the reign of our said lord the king, at Westminster, in the county of Middlesex aforesaid, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, it was by a certain decree then and there made in the said last-mentioned suit declared by the said court, that a certain settlement of accounts bearing date the thirteenth day of June 1769, and a certain release of the fourteenth day of June 1769, ought to be set aside, and the said court did then and there order and decree the same accordingly ; and that it should be referred to Mr. Graves, one of the masters of that court, to take an account of the personal estate of one Hubert Guichard therein called the testator, and come to the hands of the said Montague, the defendant in that suit, his only acting executor, or to the hands of any other person or persons by his order, or for his use ; and the said master was also to take an account of the debts, funeral expences, and legacies of the said testator, or to compute interest on such of his debts as carried interest as they respectively carried, and on his legacies from the end of one year after the death of the said testator, after the rate of four *per cent. per annum*, unless any other rate of interest or time of payment was limited by his will, and
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in that case according to his will; and it was ordered by the said court that the personal estate of the said testator should be applied in payment of his debts, funeral expences, and legacies in a course of administration; and it was also ordered and decreed by the said court, that the said master should take an account of the rents, profits, and produce of the said testator's estates and plantations in the island of St. Christopher accrued since the death of the said testator, during the minority of the said Hubert Guichard Mercer, the plaintiff, in that suit received by the said Montague, or by any other person or persons by his order or for his use; and that the said master should also take an account of all sums of money paid by the said Montague for the maintenance and education of the said Hubert Guichard Mercer, or any how otherwise to or for his use or benefit during his minority; but that court did declare that in taking the aforesaid accounts the said Montague was not to be allowed the sums of two thousand nine hundred and seventy-one pounds and eightpence halfpenny, and one hundred and sixty-one pounds and eightpence mentioned in the pleadings in that cause: And the said court did order that one moiety of the clear residue of the said testator's personal estate, and also of what should be coming on the accounts of the rents, profits, and produce of his said estates in the island of St. Christopher, after a deduction and allowance to the said Montague of what under the direction aforesaid should appear to have been paid by him for maintenance and education to and for the use and benefit of the said Hubert Guichard Mercer during his minority, or so much thereof as should appear to be remaining due to the said Hubert Guichard Mercer, should be paid by the said Montague to the said Hubert Guichard Mercer, together with interest for the same, to be computed by the said Mercer after the rate of *four per cent. per annum*, from the thirteenth day of June 1769: And it was ordered by the said court, that the said master should enquire whether the said Montague from the death of the said testator to the said thirteenth day of June 1769, had made any and what interest of the said Hubert Guichard Mercer's moiety of the clear residue of the said testator's personal estate, and of his moiety of the rents, profits, and produce of the said testator's estate and plantations at St. Christopher: And it was also ordered by the said court, that the said Montague should pay such interest to the said Hubert Guichard Mercer, and that court did declare that certain articles of agreement of the fourteenth day of June 1769 for the partition of the estates therein mentioned, and a certain conveyance of the twenty-ninth day of August following made in pursuance thereof, ought to be set aside as unduly obtained; but the said Hubert Guichard Mercer submitting to acquiesce in the partition of the said estates in and by the said articles and conveyance agreed upon on the terms in the said last-mentioned decree after mentioned, it was ordered by the said court, that the said master should enquire into and ascertain the real value of the estates allotted by the said articles of conveyance to the said Hubert Guichard Mercer and Montague respectively

tively at the time of the date of the said articles, and if it should appear that the estates thereby allotted to the said Montague were of equal value to the estates thereby allotted to the said Herbert Guichard Mercer, or were of greater value, it was ordered by the said court that the said Montague should refund to the said Hubert Guichard Mercer the sum of one thousand three hundred and sixty pounds paid by him as the difference in value between the said estates, together with interest for the same, to be computed by the said master after the rate of five *per cent. per annum*, from the date of the said articles; and in case the said master should find the estates allotted to the said Montague at the time aforesaid were of greater value than the estates allotted to the said Hubert Guichard Mercer, it was ordered by the said court that the said Montague should pay to the said Hubert Guichard Mercer the difference of such value, with interest for the same, to be computed by the said master after the rate and from the time aforesaid: And for the better taking the accounts and discovery of the matters aforesaid, the parties were to be examined upon interrogatories, and to produce before the said master, upon oath, all books, papers, and writings relating thereto, as the said master should direct, who in taking the said accounts was to make unto the said parties all just allowances; and it was ordered by the said court that the said Montague should pay unto the said Hubert Guichard Mercer his costs of that suit to the time of making the said last-mentioned decree to be taxed by the said master, and that court did reserve the consideration of the subsequent costs of that suit until after the said master should have made his report, and either side was to be at liberty to apply to the court as there should be occasion, as by the said last-mentioned decree duly inrolled in the said court of chancery of our said lord the king at Westminster, in the county of Middlesex aforesaid, and now there remaining, relation being thereunto had, will amongst other things more fully and at large appear: And whereas after the making of the said last-mentioned decree, and whilst the said last-mentioned suit was so as aforesaid depending in the said court, to wit, on the twenty-first day of December, in the year of Our Lord 1781, at Westminster, in the county of Middlesex aforesaid, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, the said master, in pursuance of the said last-mentioned decree, did make his report in writing to the said court of and concerning the several matters so as last aforesaid to him referred, and did thereby then and there certify and submit to the said

, that in pursuance of the said last-mentioned decree he had in the presence of the solicitors, and for the said Hubert Guichard Mercer and Montague, the plaintiff and defendant in the said last-mentioned suit, considered of the several matters by the said last-mentioned decree referred to him, and that he had proceeded to take the several accounts in and by the said last-mentioned decree directed to be taken in manner aforesaid, and that on those several accounts there were to be paid by the said Montague

due to the said Hubert Guichard Mercer, agreeably to the directions of the said last-mentioned decree, divers sums of money, amounting in the whole to a large sum of money, to wit, the sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling; which said last-mentioned report was after the making thereof, to wit, on the eighth day of March, A. D. 1782, at Westminster, in the county of Middlesex aforesaid, duly confirmed in and by the said court of chancery of our said lord the king, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, as by the said last-mentioned report so confirmed as aforesaid, and duly filed in the said court, and now there remaining, reference being thereunto had, will amongst other things more fully and at large appear; of all which said several last-mentioned premises the said Montague afterwards, to wit, on the day and year last aforesaid, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, had notice: And the said Hubert Guichard Mercer in fact saith, that the said last-mentioned decree and report are, and each of them is still in full force and effect, not in anywise reversed, annulled, set aside, or rendered void, and that he the said Hubert Guichard Mercer hath not yet obtained execution thereupon for the said last-mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling thereby decreed and reported to be due and payable as aforesaid, or for any part thereof, and that the same still remains and is wholly due, unpaid, and unsatisfied to him the said Hubert Guichard Mercer, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, and thereby an action hath accrued to the said Hubert Guichard Mercer to demand and have of and from the said Montague the said last-mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, other parcel of the said sum of eighty-six thousand eight hundred and fifty-four pounds thirteen shillings and sixpence sterling above demanded: And where-^{3d Count.} the said Hubert Guichard Mercer heretofore, to wit, on the eighth day of March, in the twenty-second year of our sovereign the now king, in the court of chancery of our said lord the king, holden at Westminster, in the county of Middlesex aforesaid, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, within and for his kingdom of Great Britain, before the lord high chancellor of the said kingdom, by the consideration, decree, order, and judgment of the said court recovered against the said Montague the further sum of seven thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, which in and by a certain decree of the said court, and a certain report thereupon before then made and confirmed, had been decreed and reported to be due and payable from the said Montague to the said Hubert Guichard Mercer, as by the said last-mentioned decree and report duly made and filed in the said court of chancery of our said lord the king

king at Westminster, in the county of Middlesex aforesaid, and now there remaining, relation being thereunto had, will amongst other things more fully and at large appear; which said last-mentioned decree and report still remains in full force and effect, not in anywise reversed, annulled, set aside, or rendered void, and the said Hubert Guichard Mercer hath not yet obtained execution thereupon for the said last-mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence thereby decreed and reported to be due and payable as aforesaid, or for any part thereof, but that the said last mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, and every part thereof, still remains and is wholly due, unpaid, and unsatisfied to him the said Hubert Guichard Mercer, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, whereby an action hath accrued to the said Hubert Guichard Mercer to demand and have of and from the said Montague the said last-mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, other parcel of the said sum of eighty-six thousand eight hundred and fifty-four pounds two shillings and sixpence sterling above demanded: And whereas the said Montague afterwards, to wit, on the first day of May, A. D. 1784, to wit, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, had and received to the use of the said Hubert Guichard Mercer the further sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, whereby an action hath accrued to the said Hubert Guichard Mercer to demand and have of and from the said Montague the said last-mentioned sum of fourteen thousand four hundred and seventy-five pounds thirteen shillings and ninepence sterling, other parcel of the said sum of eighty-six thousand eight hundred and fifty-four pounds two shillings and sixpence sterling above demanded: And whereas the said Montague afterwards, to wit, on the day and year last aforesaid, at the parish of St. George Basseterre aforesaid, in the island of St. Christopher aforesaid, accounted together with the said Hubert Guichard Mercer of and concerning divers sums of money before that time due and owing from the said Montague to the said Hubert Guichard Mercer, and then being in arrear and unpaid, and upon that occasion he the said Montague was then and there found in arrear and indebted to the said H. G. in the further sum of fourteen thousand four hundred and seventy-five pounds sterling, whereby an action hath accrued, &c.: And whereas the said Montague afterwards, to wit, on, &c. borrowed of the said H. G. Mercer the further sum of fourteen thousand four hundred and seventy-five pounds sterling, to be paid to him the said H. G. when he the said Montague should be thereto afterwards requested, whereby an action hath, &c.; yet the said Montague, although often requested, hath not as yet paid the said sum of eighty-six thousand eight hundred and fifty-four pounds sterling.

king above demanded or any part thereof to the said H. G. but he to pay the same or any part thereof to the said H. G. he the said M. hath hitherto wholly refused, and still doth refuse. Damages five hundred pounds, &c. *Drawn by Mr. TIDD.*

This Count is sufficient, although according to the case of Crawford against the ground of the decree is not stated Whitall, K. B. Hilary, 13. Geo. III.

MIDDLESEX, to wit. J. S. and M. his wife, late M. O. widow, complain of H. C. being, &c. in a plea that he render to the said J. and M. his wife thirty-three shillings and sixpence of lawful money of Great Britain, which he owes to and unjustly detains from them; for that whereas the said M. by the name of M. O. widow, heretofore, that is to say, in Michaelmas term last past, in the court of our lord the king, before the king himself (the said court being then and still at Westminster, in the said county of Middlesex), by the consideration of the said court, recovered against the said H. C. thirty-six shillings and sixpence, which were then and there adjudged to the said M. for his costs and charges by her sustained about her defence of a certain suit theretofore commenced by the said H. C. against the said M. whilst she was sole and unmarried in the said court of our lord the king, before the king himself in a plea of trespass, for that the said H. C. did not duly, and according to the course and practice of the said court here, declare by his bill or declaration in any personal action or ejectment against the said M. after the said appearance of the said M. in the same suit whereof he is convicted, as by the record and proceeding thereof remaining in the said court of our said lord the king, before the king himself here, manifestly appears; which said judgment still remains in full force and virtue, not revoked, annulled, or satisfied; and the said J. and M. his wife, have not, nor hath either of them yet sued out execution upon the judgment aforesaid, whereby an action hath accrued to the said J. and M. his wife, to demand and have of and from the said H. C. the said thirty-three shillings and sixpence above demanded; yet, &c. (Common conclusion in debt.)

MR. BARROW.

The plaintiff was married in a day or two before the original action was brought, and consequently before judgment of *vol. prof.* on which this action is founded.

I have considered the circumstances of the plaintiff's marriage after the suing out, and before the service of the writ in the original action with great attention, and after a long search in the books have discovered that it was not sufficient to state the writ, of course the subsequent proceedings and the present action may be supported, the principle established in each case is, that if a *form sole*

defendant marries after the writ sued out (marriage being her own act), she shall not thereby defeat the action well commenced, as therefore the writ will stand against her, I infer it ought to be equally supported for her, especially as the plaintiff in the original action is not thereby affected one way or other by it, and the subsequent proceedings must follow the original or supposed original writ, which is against her alone; I have therefore made the declaration more general, so as not to contradict the fact, and as it now stands am of opinion that it may be safely proceeded on.

THO. BARROW.
LEICESTER-

2. Stra. 811.
2. Ld. Ray 1525.

Declaration by baron and fene on a judgment of nol prof for not declaring in an action against the wife whilst she was sole, but who married before judgment declared.

110 DEBT ON JUDGMENT IN HUNDRED COURT, AND IN REPLEVIN.

Declaration in debt on a judgment recovered in an hundred court. **LEICESTERSHIRE**, to wit. John Place against Elizabeth Cowdell ; for that whereas the said plaintiff heretofore, to wit, at the court of and for the hundred of West Goscot held at M. in the county of L. aforesaid, and within the jurisdiction of the said court, on, &c. before certain then free suitors and judges of the said court then and there present in the same, according to the custom of the same court immemorially used and approved of by the consideration of the said court, recovered against the said defendant five pounds, which in and by the said court were then and there adjudged to the said plaintiff with his assent, for his costs and charges by him laid out about his defence in and of a certain plea, to wit, a plea of trespass upon the case upon promises before then commenced and brought by the said defendant against the said plaintiff in the said court, as by the proceedings thereof remaining in the said court of M. aforesaid may more fully and at large appear, which said judgment still remains in its full force, strength, and effect, not reversed, annulled, vacated, discharged, or satisfied, and the said plaintiff hath not as yet obtained execution of the same, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said five pounds, parcel of the said ten pounds above demanded : And whereas the said defendant heretofore, to wit, on, &c. at, &c. borrowed of the said plaintiff five pounds, residue of the said ten pounds above demanded ; yet, &c. (Common conclusion in debt.)

ad Count for money borrowed.

Drawn by MR. LAWES.

Michaelmas Term, 29. Geo. III.

Declaration in debt on a judgment in replevin obtained by avowant. **MIDDLESEX**, to wit. William Harris, late of, &c. was summoned to answer John Heath in a plea that he render to the said John the sum of sixty-three pounds eight shillings of, &c. which he owes to and unjustly detains from him ; for that whereas the said John heretofore, to wit, in the term of St. Michael, in the twenty-eighth year of the reign of our lord the now king, in the court of our said lord the king of the bench before the right honourable Alexander lord Loughborough and his companions, then justices of our said lord the king of the bench here, to wit, at Westminster, in the said county of Middlesex, by the consideration and judgment of the same court recovered against the said William sixty-three pounds eight shillings as well for his damages by him sustained by reason of and on account of a certain action of replevin before that time prosecuted by the said William against the said John for the supposed taking and unjustly detaining of a certain cart of the said William against sureties and pledges, as for the costs and charges of the said John by him about his suit in that behalf expended by the said court, according to the form of the statute in that case made and provided, adjudged to the said John as well at his request as with the consent of the said William, whereof the said William is convicted, as by the record of the proceedings thereof now remaining in the said court of our said lord the king of the

JUDGMENT BY ADMINISTRATOR DE BONIS NON IN B. R. 212.

such here (amongst other things) more fully appears; which judgment is still remaining in its full force, strength, and effect, not satisfied, and in no ways annulled, reversed, vacated, or quashed, nor has the said John obtained any execution of the judgment, or any part thereof; *per quod actio accrevit, &c.* mon conclusion.)

Drawn by MR. GRAHAM;

I am inclined to think that an action maintained upon the judgment damages and costs recovered by plaintiff in replevin. I entertained doubts at first, whether, as there is part of the judgment which can be included in this action, viz. judg-

ment *procurator habendo*, the defendant in replevin was justified in point of law in dividing the two judgments; but upon further considering the case, I incline to think there is nothing in the objection.

MIDDLESEX, to wit. Elizabeth Kelly, widow, administrator of all and singular the goods and chattels, rights and credits which were of Thomas Tucker deceased at the time of his death, who died intestate, unadministered by Joseph Knight in his lifetime, now deceased, complains of William Hevissey, esquire, &c. of a plea that he render to said plaintiff, administratrix of the said Thomas Tucker, one hundred and nineteen pounds ten shillings of &c. which he unjustly detains from her; for that whereas Joseph Knight, deceased, in his lifetime, that is to say, in the term, in the twenty-seventh year of the reign of our lord king George the third, as administrator of all and singular the goods, chattels and credits which were of the said T. T. deceased at the time of his death, who died intestate, in the court of our lord the king, before the king himself (the said court then and still held at Westminster, in said county of Middlesex), by bill of his majesty's writ, and by the consideration of the said court, recovered against the said defendant, as executor of the last will and testament of the said E. H. esquire, deceased, forty-nine pounds for his damages which he the said J. K. had sustained, as well as for the not performing of a certain promise and undertaking made by him the said Edward in his lifetime to said T. T. in the manner and in form aforesaid, as for his costs and charges by him the said J. K. in his lifetime about his suit in that behalf expended and levied of the goods and chattels which were of said E. H. at the time of his death in the hands of said W. to be administered, and the said W. had so much thereof in his hands to be administered, and if he had not so much thereof in his hands to be administered, then twelve pounds one shilling and fivepence, part of the damages, being for the costs and damages aforesaid to be recovered of the proper goods and chattels of the aforesaid W. wherefore said W. was convicted, as by the record and proceedings thereof remaining in the said court of our said lord the king, before the king himself, at Westminster aforesaid, more fully appears. And whereas the said J. K. deceased in his lifetime, as Recital of writ of error.

Declaration in debt at suit of administrator de bonis non on judgment recovered in K. B. against defendant, as executor, and affirmed in the exchequer chamber for the original judgment and costs of affirmation, suggesting a *devastavit*.

of

Say in second
Counts, 178.

Deusavit.

(1) "other"

(2) "last-men-
tioned"

(3) "forty-nine
pounds, resi-
due"

of April, in Easter term, in the twenty-eighth year of the reign of our said lord the now king, in his majesty's court of his exchequer chamber at Westminster, before his majesty's justices of the bench and the barons of his majesty's exchequer of the degree of the coif there, recovered against said W. H. eleven pounds ten shillings, which in the same court of the exchequer chamber aforesaid, at Westminster aforesaid, before his majesty's said justices and barons of the degree of the coif there, according to the form of the statute in such case made and provided, were then and there adjudged to said J. K. for his damages, costs, and charges which he had, by reason of the delay of the execution of the judgment aforesaid, by pretence of the prosecution of our said lord the king's writ of error by said W. H. of and upon the judgment aforesaid prosecuted, whereof the said W. H. was also convicted, as by the record and proceedings thereof remitted from the said court of our said lord the king of his exchequer chamber Westminster into his majesty's said court, before the king himself at Westminster aforesaid, and now there remaining, more fully and at large appears; which said judgment *in all things affirmed, and the said adjudication of the said eleven pounds ten shillings* still remaining in the said court of our said lord the king, before the king himself at Westminster, in THEIR full force, strength and effect, not reversed, annulled, set aside, paid off, or satisfied and the said Joseph in his lifetime, and the said Elizabeth since the death of said Joseph, have not, nor hath either of them yet obtained any execution either of the aforesaid original judgment, or of the said adjudication of the said eleven pounds ten shillings or of any or either of them: And said Elizabeth further says that the said W. after the death of said E. H. to wit, on the first day of May, A. D. 1735, at Westminster aforesaid, in the county aforesaid, sold, aliened, wasted, and disposed of to his own use divers (1) goods and chattels which were of said Edward at the time of his death, to the value of the several damages, costs, and charges aforesaid received and adjudged in form aforesaid, and every part thereof, and which said (2) goods and chattels came to the hands of said W. to be administered, whereby an action accrued to said J. in his lifetime, as administrator in form aforesaid, to demand and have of said W. the said sixty pounds ten shillings (3) parcel of said one hundred and nine pounds ten shillings above demanded. (Add another Count on the judgment for forty-nine pounds without the affirmance in error); yet the said William, although often requested, hath not rendered the aforesaid one hundred and nine pounds ten shillings or any part thereof either to said Joseph, and to which said administration of all and singular the goods and chattels, rights and credits which were of said T. T. deceased at the time of his death unadministered by said Joseph Knight deceased, were, after the death of said J. K. to wit, on the twenty-fourth of November A. D. 1755, by Thomas, by Divine Providence archbishop of Canterbury, primate of all England and metropolitan, in d:
son

law granted, or to either of them, but hath hitherto refused to render the same to them or either of them, and refuses to render same to said E. her demand of ten pounds, &c. ; and she also brings into court here the letters of administration of the said archbishop, which sufficiently prove to the court the commission of the administration aforesaid to said E. in form aforesaid, the date whereof is the day and year aforesaid mentioned. Pledges, &c.

Drawn by MR. WARREN.

Y, to wit. William Martin complains of Thomas Bartlett in a plea that he render to said plaintiff one hundred and twenty pounds four shillings of lawful, &c. which he owes to said plaintiff; for that whereas the said plaintiff, to wit, at the court of record of our lord the now king of Kingston-upon Thames, in the county of Surry, in the Guildhall of said town in and for said town, and with the jurisdiction of the court, on Saturday, the seventh day of September 1745, before Thomas Brown, gentleman, and Thomas, gentleman, then bailiffs of said town, and Nicholas, then recorder of said town, then judges of the court according to the custom of said court from time immemorial used and approved of, came personally, and then and there the said court, according to the custom of said court during the time aforesaid there used and approved of, levied his certificate against said defendant by the name of, &c. of a plea of one hundred and eighty pounds on demand, for a certain action arising and happening to said plaintiff within the jurisdiction of said court, and then and there in said court found and prosecuted his said plea, to wit, John Doe and Roe, and such proceedings were thereupon had in and for said plea, that afterwards, to wit, at the same court so held on said seventh day of September in the year aforesaid, before the then bailiffs and recorder of said town, at the court aforesaid, according to the custom aforesaid, said defendant then and there appeared in the said court to said plaintiff, and there in said court so held as aforesaid, in consideration and judgment of the said court, and by the said court as well of said plaintiff as of said defendant recovered of said defendant in said plea as well his said debt of one hundred and eighty pounds as two pounds four shillings, which in and for said plea, and by the consent as well of plaintiff as of said defendant then and there awarded to said plaintiff for his damages then and there sustained as well on occasion of the detaining of said plaintiff as for the costs and charges by him laid out about his suit, and whereof said defendant was convicted, as by the proceedings thereof remaining in said court at K. aforesaid appears; which said judgment still remains in that state, unpaid, and unsatisfied, and said plaintiff hath

Declaration in debt on judgment recovered in a court at Kingston-upon Thames.

not

not as yet obtained any execution of his said judgment, whereby an action hath accrued to said plaintiff to demand of said defendant said one hundred and eighty-two pounds four shillings above demanded, being the debt and damages aforesaid above recovered as aforesaid, yet said defendant, although often requested, &c. hath not yet paid said one hundred and eighty-two pounds four shillings, or any part thereof to said plaintiff, but to pay him same hath hitherto wholly refused, and still doth refuse, to the damage of said plaintiff of pounds; and therefore he brings his suit, &c.

Plea 1st, no such record; 2d, payment of debt and damages.

BARTLETT } And said defendant, by E. B. his attorney, comes
at suit of } and defends the wrong and injury, when, &c. and
MARTIN. } says, that said plaintiff *actio non*; because he says there is no such record of said judgment in said court of the town of Kingston aforesaid, as said plaintiff hath above in his said declaration alledged; and this he said defendant is ready to verify, wherefore, &c.: And for further plea in this behalf he said defendant, by leave, &c. further says, that said plaintiff *actio non*; because he says, that he said defendant after the said recovery of said debt and damages, and before the exhibiting, &c. to wit, on, &c. at K. aforesaid, paid to said plaintiff the debt and damages aforesaid in form aforesaid recovered; and this he said defendant is ready to verify; wherefore, &c.

EDWARD BOOTH.

See stat. 4. & 5. Ann. c. 16. s. 12. Com. Dig. tit. Pleader, 2. Will. 13.

Replication that there is such record, and that defendant did not pay debt and damages; with two issues, one to be tried by the record, the other by the country.

MARTIN } And said plaintiff, as to said plea of said defendant
at suit of } by him first above pleaded in bar, says, that he by
BARTLETT. } any thing therein alledged ought not to be barred from having his aforesaid action thereof maintained against said defendant, because he says there is such a record of said judgment remaining in said court of the town of K. aforesaid, as said plaintiff hath above in his said declaration in that behalf alledged; and this he said plaintiff is ready to verify by his said record, how, where, and in what manner this court here shall order, &c.: And as to the said plea of the said defendant by him secondly above pleaded in bar, he said plaintiff says, that he by any thing, &c. (as before), *precludi non*; because he says that said defendant did not pay to said plaintiff the debt and damages aforesaid, recovered in form aforesaid, as said defendant hath above in that behalf in pleading alledged; and that he said plaintiff prays may be enquired of by the country, and said defendant doth the like, &c.; therefore as to the premises whereof said parties have above put themselves in issue to be levied by the record, said plaintiff is commanded that he have the said record before the king himself, on next after, &c. and that he fail not at his peril, &c.; and as to the trial of said issue above joined, let the aforesaid parties to be tried by the country, let them cause a jury, &c.

Hilary

Hilary Term, 24. Geo. III.

MIDDLESEX, to wit. John Baptist A. late of, &c. Declaration in debt in C. P. on a judgment of non prof. for not declaring, recovered in King's Bench against the plaintiff in the former action.

was summoned to answer unto John Wheler in a plea that he rendered to him thirty-three shillings of lawful, &c. which he owes to and unjustly detains from him, &c. ; and whereupon said plaintiff, by A. B. his attorney, complains, that whereas he said plaintiff theretofore, in Michaelmas Term, in the twenty-fourth year of the reign of our said lord the now king, in the court of our said lord the king, before the king himself (the said court then and still being held at Westminster, in the county of Middlesex, recovered against said defendant thirty-three shillings, which in and by said court of our said lord the king, before the king himself, were then and there adjudged to said plaintiff for his costs and charges by him sustained in and about his defence of a certain action or suit theretofore brought and commenced by said defendant against him said plaintiff in the said court of our said lord the king, before the king himself, for that he the said defendant did not declare or put into the said court of our said lord the king, before the king himself, his bill or declaration in any personal action or judgment against the said plaintiff, before the end of the term next after the appearance of the said plaintiff of the said court to a certain writ of our said lord the king called a *latitat*, before then issued out of the said court in the aforesaid action or suit of said defendant against him said plaintiff, but omitted and neglected to do so, whereof said defendant was convicted, as by the record and proceedings thereof remaining in the said court of our said lord the king, before the king himself, at Westminster aforesaid, in said county of Middlesex, more fully and at large appear; which said judgment still remains in full force, strength, and effect, in no manner reversed, vacated, answered, paid off, discharged, or satisfied, nor hath he said plaintiff as yet obtained execution thereof, whereby an action hath accrued to said plaintiff to demand and have of and from said defendant said sum of thirty-three shillings above demanded; yet, &c. (Common conclusion in debt.)

V. LAWES.

FOR that whereas said plaintiff heretofore, that is to say, in Hilary term, in the twenty-third year of the reign of our lord the now king, in the court of our said lord the king of the bench at Westminster, in the county of Middlesex, by the consideration of said court of the bench there recovered against said defendant, &c. for that said defendant did not reply to a certain plea of said plaintiff to him pleaded in a certain plea of trespass on the case on premises against him said plaintiff, lately commenced by said defendant in court of the bench there, according to the form of the statute in such case made and provided, which were awarded to said plaintiff, and at his request by said court of the bench there for his costs and charges by him laid out about his defence in that behalf, whereof said defendant was convicted, as by the record and proceedings thereof

thereof remaining in said court of our said lord the king of the bench at Westminster more fully and at large appears; which said judgment still remains in full force, strength, and effect, not reversed, vacated, annulled, discharged, or satisfied, and said plaintiff hath as yet obtained no execution of his aforesaid judgment, by means whereof an action hath accrued to said plaintiff to demand and have of said defendant said pounds above demanded; yet, &c. (Common conclusion in debt.)

Drawn by MR. WARREN.

Declaration in debt on judgment after verdict for plaintiff in county court of Yorkshire, in *assumpsit*.

See Carth. 85.
Cro. Eliz. 817.
877.
1. Will. 319.
Doug. 1. to 7.

2d Count, money had and received.

YORKSHIRE, to wit. John Cockroft complains of Robert Barrett otherwise Wooler, being, &c. in a plea that he render to him the said John nineteen pounds thirteen shillings and fivepence of lawful, &c. which he owes to and unjustly detains from him; for that whereas heretofore, to wit, on Wednesday, the third day of February, in the year of Our Lord 1700, at the county court of Walter Fowkes, esquire, the sheriff of the county of York, held at the castle of York in and for the said county, and within the jurisdiction of the said court, before William Wilton, John Hall, Thomas Snowden, and Thomas Birks, suitors of the said court, the said John came and levied his plaint in the said court against the said Robert, of a plea of trespass on the case to the damage of the said John of thirty-nine shillings and elevenpence, and such proceedings were there had thereupon that afterwards, to wit, at the county court of Charles Duncombe, esquire, then being sheriff of the said county of York, held at the said castle of York in and for the said county, and within the jurisdiction of the said court, on Wednesday the thirteenth day of October, in the year aforesaid, before G. S. J. B. G. W. and J. L. suitors of the said court, the said John, by the consideration and judgment of the said court, recovered against the said R. T. nine pounds thirteen shillings and fivepence, which in and by the said court were adjudged to the said John as well for the damages which he had sustained in the plea aforesaid as for his costs and charges by him about his suit in that behalf expended, whereof the said Robert was convicted, as by the memorandum and proceeding thereof still remaining in the said county court of York aforesaid, in the court and jurisdiction aforesaid, more fully appears, which said judgment still remains in full force, not annulled, vacated, or otherwise discharged or satisfied, by means whereof an action hath accrued to the said John to demand and have of and from the said Robert the said nine pounds thirteen shillings and fivepence, parcel of the said nineteen pounds thirteen shillings and fivepence above demanded: And whereas the said Robert afterwards, to wit, on the first day of June, in the year of Our Lord 1701, at York aforesaid, in the county aforesaid, had and received to the use of the said John another large sum of money, to wit, the sum of ten pounds of like lawful money, whereby the said Robert became liable to pay to the said John the said last-mentioned sum of money

COURTS INFERIOR.

then he the said Robert should be thereto after, whereby an action hath accrued to the said John. I have of and from the said Robert the said last-mentioned money, residue of the said nineteen pounds thirteen pence above demanded; yet the said Robert, although requested, hath not as yet paid the said nineteen pounds thirteen pence and fivepence above demanded or any part thereof to the said John, but to render the same or any part thereof to the said John the said Robert hitherto wholly refused, and still refuses, to the damage of the said John of ten pounds; and therefore he sueth, &c. for bond. Pledges, &c.

T. BARROW.

King's Bench, Hilary Term, 28. Geo. III.

CASHIRE, to wit. James Groves against John Fisher, for seventy-seven pounds fourteen shillings; for that at the court of record of our said lord the king of the county of Liverpool, holden at L. in the county of Lancaster, in the common hall of the same borough, and within the jurisdiction of the said court, on Thursday the eleventh of March 1784, before William Heiketh the then mayor, and Charles Poole and Thomas Rigby the then bailiffs of the said borough, and judges of the said court, according to the customs of the said borough from time to time memorial then used and approved of, came the said James Groves per person and then and there at the same court levied his complaint against the said John in a certain plea of trespass on the said John to the damage of the said James of one hundred pounds, in a certain cause of action arising to the said James within the jurisdiction of the said court, and then and there found pledges for the prosecution of the said complaint, to wit, John Doe and Richard Roe, and such other persons as were thereupon had in the said court that afterwards, at the said court of our said lord the king of the county of Liverpool, holden at L. in the said county of Lancaster, in the common hall of the said borough, and within the jurisdiction of the said court, on Thursday the twenty-seventh of January 1785, before John Gregson, esquire, the then mayor, and Joseph and John Greenwood the then bailiffs of the said borough, and judges of the said court, the said James by the counsel and judgment recovered against the said John thirty-seven pounds seventeen shillings, which in and by the said court, as last aforesaid, were adjudged to the said James for the damages which he had sustained as well by reason of the not performance of certain promises and undertakings before then made by the said John to the said James, within the jurisdiction, as for his costs and expenses by him about his suit in that behalf expended, whereupon the said John was convicted, as by the record and proceedings in the said court of L. aforesaid, in the said county of Liverpool, within the jurisdiction, more fully appears, which said record and proceedings remain in full force and effect, not reversed, satisfied,

Declaration in debt on a judgment recovered in the borough court of Liverpool.

DEBT ON JUDGMENT (IN DEBT ON RECOGNIZANCE.)

ad Count.

fied, or otherwise vacated; and the said James hath not yet obtained any execution of the said judgment, whereby an action hath accrued to demand and have of and from the said John the said thirty-eight pounds seventeen shillings so received as aforesaid, parcel of the said seventy-seven pounds fourteen shillings above demanded: And whereas the said James, at the said court of record of our said lord the king of the borough of Liverpool, holden at Liverpool, in the said county of L. in the common hall of the said borough, and within the jurisdiction of the said court, on the seventeenth day of January 1; 88, before Thomas East, esquire, the then mayor, and Thomas Stainforth and Clayton Tarlton, the then bailiffs of the said borough, and judges of the said court, according to the custom of the said borough from time immemorial there used and approved of, by the consideration and judgment of the said court recovered against the said John other thirty-eight pounds seventeen shillings, which in and by the said court holden as last aforesaid, were adjudged to the said James for the damages which he had sustained, as well by reason of the not performing the promises and undertakings before then made by the said John to the said James, within the jurisdiction of the said court, as to his costs and charges by him about his suit in that behalf expended, whereof the said John was convicted, as by the record and proceedings thereof remaining in the said court at L. aforesaid, in the said county of Lancaster, and within the jurisdiction of the said court, more fully appears, which said last-mentioned judgment still remains in full force and effect, not reversed, satisfied, or otherwise vacated; and the said James hath not yet obtained any execution of the said last-mentioned judgment, whereby an action hath accrued to the said James to demand and have of and from the said John the said sum of thirty-eight pounds seventeen shillings so recovered as last aforesaid, residue of the said seventy-seven pounds fourteen shillings above demanded; yet, &c. [Common conclusion in debt.]

SAMUEL MARRYATT.

King's Bench, Trinity Term, 29. Geo. III.

Declaration in
debt on judg-
ment recovered
in K. B. on an
action of debt
on recogni-
zance.

MIDDLESEX, to wit. Robert Hale against William Williams, in debt for two hundred and ninety two pounds ten shillings; for that whereas [the declaration first states in the usual form the recovery in Michaelmas term of a judgment in assumpsit in the court of K. B. against one Henry Vaughan for the money demanded *pro ut pater per recordum*, and then proceeds]; and whereupon it was afterwards, to wit, in Hilary term, in the twenty-ninth year aforesaid, considered by the court of our said lord the king, before the king himself, to wit, at Westminster aforesaid, that the said Robert should have execution against the said William for the damages aforesaid, according to the force, form, and effect of a certain recognizance then lately acknowledged by him the said William as one of the bail of and for the said H. V., in the plea aforesaid, whereof

whereof the said William was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, more fully appears, and as well the said judgment as the said award of execution, still remaining in full force and effect, not in anywise reversed, satisfied, or otherwise vacated, and the said Robert hath not obtained any execution of or upon the said judgment or award of execution; [*per quod alio accrevit*, &c. with common conclusion in debt.]

Drawn by Mr. TIDD.

In the Exchequer, Michaelmas Term, 29. Geo. III.

MIDDLESEX, to wit. George Wheeler, a debtor of our Declaration in
 the now king, comes before the barons of his exchequer debt on judg-
 at Westminster, on the twenty-eighth of November, in this same ment recovered
 term, by Roger Jordin his attorney, and complains by bill against in the ex-
 John Garnham, being a prisoner in the custody of the sheriff of chequer.
 Middlesex by virtue of his majesty's writ of *quo minus*, issued out of and under the seal of this honourable court, and returnable therein on the morrow of All Souls then next coming, of a plea that he render unto the said George the sum of forty pounds of lawful, &c. which he owes to and unjustly detains from him; for that whereas the said G. heretofore, to wit, in Easter term in the twenty-eighth year of the reign of our said lord the now king, in the court of our said lord the king, before the barons of his exchequer at Westminster, in the county of Middlesex aforesaid, by the consideration and judgment of the said court, recovered against the said John the sum of twenty-five pounds two shillings and ninepence, which in and by the said court of our said lord the king, before the barons of his exchequer aforesaid, was adjudged to the said G. for his damages which he had sustained, as well by reason of the not performing certain promises and undertakings then lately made by the said John to the said G. as for his costs and charges by him about his suit in that behalf expended, whereas the said John was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the barons of his exchequer, at Westminster aforesaid, more fully appears; [the declaration then proceeds to alledge that the judgment continues in force, and that no execution has been issued, *per quod alio accrevit*, to the amount of the money recovered by the judgment, parcel, &c. A 2d Count on a *mutuus* for the sum of fourteen pounds seventeen shillings and threepence, residue, &c. with common conclusion in debt]; to the said George his damage of forty pounds, whereby he is the less able to satisfy our said lord the now king the debts which he owes to his majesty's exchequer, and therefore he brings suit, &c. Pledges, &c.

Drawn by Mr. TIDD.

DEBT ON JUDGMENT.

King's Bench, Hilary Term, 37. Geo. III.

Declaration on
a judgment of
non prof.

CITY OF WORCESTER AND COUNTY OF THE SAME

CITY, to wit. William Lancashire complains against James Smith, being in the custody of the marshal of the marshalsea, our lord the now king, before the king himself, in a plea that he render to the said William the sum of ten pounds of lawful money of Great Britain, which he owes to and unjustly detain from him; for that whereas the said William lately, to wit, on the nineteenth day of April 1796, at the city of Worcester aforesaid and county of the same city, at the court of Richard Morton, gentleman, then sheriff of the said city and county of the said city, there and there held before the suitors of the said court, according to the custom of the said court from time immemorial, and by the judgment of the said court recovered against the said James fourteen shillings and tenpence, parcel of the said sum of ten pounds above demanded, for the costs and charges of the said William by him sustained, for that the said James did not prosecute his suit in the said court against the said William, whereof the said James is convicted, as by the proceedings thereof remaining in the said court more fully appears, which said judgment still remains in full force and effect, not in the least annulled, reversed, or satisfied whereby an action hath accrued to the said William to demand and have from the said James the said sum of fourteen shillings and tenpence, parcel of the said sum of ten pounds above demanded.

2d Count, on a
mutuatus.

And whereas also the said James afterwards, to wit, on the same day and year aforesaid, at the city of Worcester aforesaid, and county of the same city, had borrowed of the said William nine pounds five shillings and twopence, further parcel of the said sum of ten pounds above demanded, to be paid to the said William whenever afterwards he the said James should be thereunto requested; yet the said James, although often requested, hath not yet paid to the said William the said sum of ten pounds above demanded or any part thereof, but to pay the same to the said William he the said James hath hitherto and still doth refuse, to the damage of the said William of twenty pounds, and therefore brings suit, &c. Pledges, &c.

DEBT ON PENAL STATUTES.

Declaration *qui*
tamen the statute
24 Geo. 3. c. 7
for giving a re-
ceipt without a
proper stamp.

MIDDLESEX, to wit. John Brightmore, who sues as v. for our sovereign lord the king as for himself in this behalf, complains of John Parr, being, &c. of a plea that he render to the said lord the king and to the said plaintiff who sues as aforesaid the sum of ten pounds of, &c. which he owes to and unjustly detains from them; for that the said defendant after the twentieth day of March, A. D. 1784, and before the exhibiting the

of the said plaintiff who sues as aforesaid against the said defendant, to wit, on, &c. at, &c. in, &c. *did cause to be written* a certain receipt then and there given by him the said defendant to the said plaintiff for the payment of money, that is to say, for the payment of the sum of one pound of lawful money of Great Britain, by the said plaintiff to the said defendant, in which the sum mentioned therein was then and there expressed to be in full of all demands, and which said receipt was then and there liable to a certain stamp duty, that is to say, a stamp duty of fourpence, charged and imposed in and by a certain act made at the parliament of our said lord the king, holden at Westminster in the twenty-third year of his reign, entitled, "An Act for repealing an Act made in the twenty-third year of the Reign of his present Majesty, entitled, "An Act for the charging a Stamp Duty upon Bills of Exchange, Promissory Notes, or other Notes payable otherwise than upon demand, and for granting new Stamp Duties on Bills of Exchange, Promissory and other Notes, and also Stamp Duties on Receipts," upon a certain piece of paper without the same being first duly stamped, as in and by the said act is directed, and upon which there was not then and there any stamp or mark resembling the same, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute the said defendant forfeited and became liable to pay for his said offence the sum of five pounds, and thereby and by force of the statute in such case made and provided, an action hath accrued to the said plaintiff who sues as aforesaid, to demand and have for our said lord the king and himself in this behalf, of and from the said defendant the sum of five pounds so forfeited as aforesaid, parcel of the said sum of ten pounds above demanded: And also for that the said defendant, after the said twenty-fifth day of March 1784 aforesaid, and before the exhibiting, &c. *did sign* a certain other receipt then and there given by, &c. &c. [as in first Count to the end]; yet, &c. [Common conclusion in *qui tam* actions].

Vide the act of 23. Geo. 3. c. 49. did cause to be written, &c. then and there given.

2d Count, did sign, &c.

WARWICKSHIRE, to wit. W. B. who sues as well for the poor of the parish of B. in the said county of W. as for himself in this behalf, complains of W. B. being, &c. of a plea that he render to the said poor of the said parish and to the said W. B. who sues as aforesaid, one hundred and fifty pounds of, &c. which he owes to and unjustly detains from them; for that the said defendant, after the twenty-fourth day of June, A. D. 1737, and within six calendar months next before the exhibiting the bill of the said plaintiff, to wit, on, &c. in the parish of, &c. in, &c. *did* for hire, gain, and reward, act, represent, and perform a certain part, to wit, the part of Amintor, in a certain entertainment of the stage called Daphne and Amintor, without any authority so to do by virtue of letters patent from his majesty or his predecessors, or without licence from the chamberlain of his majesty's household for the time being, contrary to the form of, &c.; whereby

Declaration on the stat. 10. Geo. 2. c. 28. against defendant, for performing in certain entertainments of the stage without being licenced.

2d Count.

by and by force of, &c. the said W. B. forfeited for his said offence the sum of fifty pounds, whereby and by force of, &c. an action hath, &c.: And the said W. B. who sues as aforesaid, further says, that the said defendant, after the said twenty-fourth day of June, A. D. 1737, and within, &c. to wit, on, &c. in, &c. did for hire, gain, and reward, perform a part in an entertainment of the stage, to wit, in a certain entertainment of the stage called a concert of vocal and instrumental music, without any authority, &c. &c. [as in first Count to the end.]: And the said W. B. &c. &c. [same as the last, only that the defendant played on another day]; yet, &c. [Common conclusion in *qui tam* actions.]

Declaration in debt on statute 2. Geo. 2. c. 23. s. 24. for acting as a solicitor in the exchequer upon the defence of a bill.

MIDDLESEX, to wit. Oswald Truefit complains of Thomas Becket, gentleman, one of the the attornies of the court of our lord the now king, before the king himself, present here in court in his own proper person, in a plea that he render unto him the said Oswald two hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c. for that the said Thomas, after the first day of December, A. 1730, to wit, on the fourteenth of March, A. D. 1785, at Westminster, in, &c. did in his majesty's court of equity in the exchequer chamber at Westminster aforesaid, in his own name, send a certain suit there then depending in the same court, wherein J. M. H. and J. B. were complainants and the said Oswald and Jane his wife, late Jane Bromly, R. B. and J. W. were defendants, as solicitor for and on the part and behalf of the said Oswald, Jane his wife, R. B. and J. W. for and in expectation of gain, fees, and reward, without being at the time he the Thomas so acted as solicitor as aforesaid admitted and enrolled in the same court in which he so acted as aforesaid, as by the statute in such case made and provided is required, contrary to the form of the said statute; whereby and by force of which statute the said Thomas forfeited and became liable to pay for said offence the sum of fifty pounds, whereby and by force of aforesaid statute an action hath accrued, &c. &c.: And the plaintiff in fact further saith, &c. &c. [2d Count same as the first, omitting in what name defendant practised, and on whose behalf, &c. &c. 3d Count.]

Declaration on the statute of Anne, for not paying the duty of six-

MIDDLESEX, to wit. William Flemming, who sues well for our lord the king as for himself in this behalf, complains of William Flanagan, being, &c. in a plea that he render to the said lord the king and the said William, who sues as aforesaid, pence for every 20s. for money taken with an apprentice. 8. Ann, c. 9. s. 32. gives the duty from 20s. to 30s. directs when and how to be paid, and 9. Ann, c. 21. s. 7. perpetuates that statute, and gives the penalty.

hundreds

hundred and fifty pounds, which he owes to and unjustly detains from them; for that whereas after the first day of May, which was A. D. 1715, and before the exhibiting the bill of the said William Flemming, who sues as aforesaid, to wit, on, &c. one M. B. did by a certain writing, to wit, by certain articles of agreement in writing duly entered into, executed, and signed within the city of London, bearing date the day and year last aforesaid, put herself apprentice to the said William Flanagan, and he the said William Flanagan did then and there by such writing accept and take the said M. B. as his apprentice, to learn the trade and business of a mantua-maker, and with him the said William Flanagan as an apprentice to serve from the day of the date of the said writing unto the full end and term of three years from thence next ensuing, and fully to be complete and ended: And the said William Flemming, who sues as aforesaid, in fact further saith, that before the exhibiting the bill of him the said William Flemming, to wit, on, &c. there was given and paid to the said William Flanagan, and he the said William Flanagan then and there received with and in relation to the said M. B. as such apprentice to the said William Flanagan as aforesaid the sum of twenty pounds of like lawful money, which said sum so given and paid with and in relation to the said M. B. as such apprentice as aforesaid, was and is contained and inserted in the aforesaid writing; whereby and by force of the statute in such case made and provided he the said William Flanagan, as master of the said M. B. became liable to pay and ought to have paid to our lord the now king, within the time by the statute in such case made and provided limited, and according to the true intent and meaning of the same, the sum of ten shillings, being the duty of sixpence for every twenty shillings of the said twenty pounds so given and paid with and in relation to the said M. B. as such apprentice as aforesaid, and by the statute in such case made and provided charged and made payable: Yet the said W. Flemming, who sues as aforesaid, in fact saith, that he the said William Flanagan, *being such master of the said M. B. as aforesaid*, did not at any time within one month next after the date of the said writing at the head office for stamping or marking of vellum, parchment, or paper, pay to the receiver-general for the time being of the said duties on stamped vellum, parchment, and paper, the said duty charged and payable in the sum of twenty pounds in such writing inserted as aforesaid, according to the true intent and meaning of the statute in such case made and provided, nor hath he the said William Flanagan at any other time since hitherto, or in any other manner whatsoever paid the said sum of ten shillings, being the duty aforesaid, to our said lord the king, but hath wholly neglected so to do, and therein failed and made default, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, the said William Flanagan forfeited for his said offence the sum of thirty pounds, to wit, at, &c. by reason whereof and by force of the statute in such case

2d Count.

case made and provided an action hath accrued to the said W Flemming, who sues as aforesaid, to demand and have for him and our said lord the king of and from the said William Flanagan the said sum of fifty pounds so by him forfeited as aforesaid, and of the said sum of one hundred and fifty pounds above demanded. And the said William Flemming, who sues as aforesaid, further saith, that after the first day of &c. which was A. D. 1715 before the exhibiting of, &c. to wit, on, &c. the said M. B. by a certain other writing, to wit, by certain other article or agreement in writing duly entered into, executed, and signed in the said city of London, by the said William Flanagan, A. F. his wife, and bearing date, &c. put herself apprentice to A. F. then and still being the wife of the said W. F. and the said A. F. did then and there by such last mentioned writing accept and take the said M. B. as her apprentice, to learn the trade and business of a mantua-maker, and with her the said M. B. as an apprentice from the day of the date of the said last-mentioned writing unto the full end and term of three years from the next ensuing and fully to be complete and ended: And the said William Flemming, who sues as aforesaid, in fact further saith, that before the exhibiting of, &c. the said William Flanagan, who sues as aforesaid, in London aforesaid, there was given and paid to the said William Flanagan, and he the said William Flanagan did then and there receive with and in relation to the said M. B. as such apprentice to the said A. F. as last aforesaid, the sum of twenty pounds of like, &c. which said sum so given and paid with and in relation to the said M. B. as such apprentice last aforesaid, was and is contained and inserted in the said last-mentioned writing; whereby and by force of, &c. [finish Count same as the last, only omitting what is in Italic]: And the said William, who sues as aforesaid, further saith, that after and before the exhibiting, &c. the said William Flemming, who sues as aforesaid, to wit, on, &c. the said M. B. did by, &c. bearing date, &c. agree to serve the said William Flanagan, and the said William Flanagan did then and there by such last-mentioned writing accept and take the said M. B. as his servant to learn the trade of, &c. and with him as such servant as last aforesaid serve from the date of, &c. unto the full end, &c.: And the said William Flemming, who sues as aforesaid, &c. &c. [finish last Count to the end, only instead of saying "apprentice" say "servant"]; yet the said William Flanagan, although often requested, hath not as yet rendered the said sum of one hundred and fifty pounds so by him forfeited as aforesaid and above demanded or any part thereof, to our said lord the king and the said W Flemming, who sues as aforesaid, or either of them, but hath rendered the same to our said lord the king and the said W Flemming, who sues as aforesaid, or either of them, hath wholly refused and still refuses so to do, to the damage of the said William Flemming, who sues as aforesaid, of twenty pounds.

3d Count.

Declaration on 25. Geo. 3. for defrauding the king of the post-horse duty.

HAMPSHIRE, to wit. Joseph Bradley, late of, &c. summoned to answer James Nash, who sues as well for our sovereign lord the king as for himself in this behalf, in a plea that he re- to our said lord the king, and the said James who sues as afore- one hundred and fifty pounds of lawful, &c. which he owes, for that whereas before and at the time of committing the several offences hereafter mentioned, the said Joseph was an innkeeper licensed to let post-horses, according to the form of a certain act of parliament made and passed in the twenty-fifth year of the reign of his present majesty, intituled, "An Act for repealing the Duties on Licences, &c. &c." (set out the title) not residing within the cities of London or Westminster, or within five miles of the city of London, or of the head office for stamps, nor within the bills of mortality, but elsewhere, to wit, at Portsmouth aforesaid, in the said county of Hants: And the said James who sues as aforesaid, in fact further saith, that the said Joseph so being an innkeeper so licensed aforesaid, he the said Joseph, after the making of the aforesaid act of parliament, and also after the first day of August 1780 then mentioned, and within six calendar months next before the issuing out of the original writ of the said James, who sues as aforesaid to wit, on, &c. at, &c. did let to hire to one A. B. divers to wit, five horses for the purpose of travelling post by the mail in Great Britain, to wit, from Portsmouth aforesaid to London, and did then and there, to wit, on, &c. at, &c. receive from him the said A. B. a certain sum of money, to wit, the sum of two pounds five shillings, being as and for the duty in such case payable under and by virtue of the aforesaid statute for so travelling post by mail, with the said horses so let to hire by the said Joseph as aforesaid, from Portsmouth aforesaid, to London aforesaid, of which said money so by him received as aforesaid, he the said Joseph ought to have rendered a just and true account according to the form of the statute in such case made and provided; yet the said Joseph not regarding the statute in such case made and provided nor fearing the penalty therein contained, did not account for the said money so by him received as and for such duty as aforesaid according to the form of the statute in such case made and provided, or in any other manner whatsoever; but on the contrary did then and there wilfully conceal the said receipt of the said money so by him received as and for such duty as aforesaid, upon the said letting to hire of the said horses so by him let to hire as aforesaid, and unlawfully retains the same to his own use, with an intent and design to defraud his majesty of the said duty so imposed by the said act of parliament, and so received by him the said Joseph as aforesaid, contrary to the form of the said statute; whereupon and by force of the said statute the said Joseph forfeited for his offence the sum of fifty pounds, whereby an action hath accrued to the said James, who sues as aforesaid, to demand and have from the said Joseph the said sum of fifty pounds so by him forfeited as aforesaid, part of the said sum of one hundred and fifty pounds above demanded.

Trinity Term, 21. Geo. III.

WILTSHIRE, to wit. William Kinnebrook, esquire, complains of Francis Ranger, being, &c. in a plea that he render to him the said William three thousand pounds of lawful, &c. which he owes to and unjustly detains from him, &c.; for that whereas the borough of Hindon in the said county of W. is an ancient borough, and for a long space of time two burgesses of the same borough have been elected and sent, and have used and accustomed to be elected and sent, and still of right ought to be elected and sent to serve as burgesses for the same borough in the parliament of this kingdom: And whereas on the second day of September, in the twentieth year of the reign of our sovereign lord the now king, a certain writ of our said lord the king under the great seal of Great Britain, issued out of his said majesty's court of Chancery, the said court then and still being at Westminster, in the county of Middlesex, directed to the sheriff of the said county of W. by which said writ our said lord the king reciting, that by the advice and assent of his said majesty's council, for certain arduous and urgent affairs concerning his said majesty, the state and defence of his kingdom of Great Britain, and the church, our said lord the king had ordered a certain parliament to be holden at his said majesty's city of Westminster, on the thirtieth day of, &c. then next ensuing; and there to treat and have conference with the prelates, great men, and peers of his said majesty's realm, the said lord the king commanded and strictly enjoined the said sheriff that proclamation being made of the day and place aforesaid, in the sheriff's next county court to be holden after the receipt of that his majesty's said writ, two knights of the most fit and discreet of the said county of W. girt with swords, and of every city of the said sheriff's county, two citizens, and of every borough in the said county, two burgesses of the most sufficient and discreet, freely and indifferently by those who at such proclamation should be present, according to the form of the statute in such case made and provided, the said sheriff should cause to be elected whether they were present or absent; the said sheriff should cause to be inserted in certain indentures to be thereupon made between the said sheriff and those who should be present at such election and them at the day and place aforesaid, the said sheriff should cause to come in such manner that the said knights for themselves, and the commonalty of the said county, and the said citizens and burgesses for themselves, and the commonalty of the said cities and burghs respectively might have from them full and sufficient power to do and consent to those things which then and there by the common council of his majesty's kingdom (by the blessing of God) should happen to be ordained upon the aforesaid statute, so that for want of such power, or through an improvident election of the said knights, citizens, or burgesses, the aforesaid affairs might in nowise remain unfinished; willing nevertheless, that neither the said sheriff, nor any other sheriff of his said majesty's kingdom should be in anywise elected: And the election in the

Declaration in debt on the stat. 2. Geo. 2. c. 24. s. 7. for taking money for a writ at an election for a member of parliament for a borough.

the said sheriff's full court so made distinctly and openly said sheriff's seal, and the seals of those who should be such election, the said sheriff should certify to our said king, in his majesty's chancery, at the day and place said without delay, remitting to his majesty one parchment indenture annexed to the said writ, together with the said writ, which said writ afterwards and before the return thereof to wit, on, &c. in the said twentieth, &c. at the borough of H. in, &c. was delivered to P. C. M. esquire, who then and from that time until and after the return of the said sheriff of the said county of W. to be executed in due form to wit, at the borough of H. aforesaid, by virtue of the said writ the said sheriff afterwards and before the return thereof to wit, on, &c. in the said twentieth, &c. at the borough aforesaid, made his precept in writing, sealed with the seal of the office of sheriff, directed to the bailiff of the said borough for the election within the said borough of two burgesses of the said borough, according to the form and effect of the said writ, the virtue of which said precept afterwards and before the return of the said writ, to wit, on, &c. in the said twentieth year, &c. aforesaid, in, &c. the election of two burgesses of the said borough to serve as burgesses for the said borough at the next parliament to be holden as aforesaid, was had and made. And the said W. in fact further saith, that before the election had and made, and at the time of the committing of the said offences hereafter mentioned respectively, Lloyd Kenyon, Nathaniel Wraxall, esquire, Samuel Peach, esquire, Jonathan, esquire, and John Widmore, esquire, had declared themselves and were candidates, that of them two of them might be elected to serve as burgesses for the said borough at the aforesaid parliament: Yet the said W. in fact saith, that the said Francis *having a right to vote at the said election* of burgesses, to wit, the said Francis, did give his vote for the said burgesses for the aforesaid borough of H. in the said then next parliament of this kingdom, to be holden as aforesaid, did on the twenty-fourth day of June, which was A. D. 1729, at the aforesaid election was had and made, and whilst the said Francis, &c. &c. were such candidates to be elected to serve as burgesses for the said borough of H. as aforesaid, to wit, on, &c. in the borough of H. aforesaid, in, &c. ask of and from the said Francis a large sum of money, to wit, the sum of forty guineas, of a gift to him the said Francis, to give his aforesaid vote at the aforesaid election of burgesses to serve in parliament for the said borough of H. that is to say, to give his vote for the said J. Coghlan and John Widmore, that they the said J. C. might be elected to serve as burgesses for the said borough in the said then next parliament of this kingdom, contrary to the form of the statute in such case made and provided, whereby by force of the statute in such case made and provided the said Francis forfeited for his said offence the sum of five pounds of lawful, &c. and by reason thereof, and by force

statute in such case made and provided, an action hath accrued to the said William to demand and have of and from the said William the said sum of five hundred pounds so by him forfeited as aforesaid, parcel of the said three thousand pounds above demanded: And the said plaintiff in fact further saith, that the said Francis ^{3d Count.} *claiming to have a right to vote* in the said election of, &c. [as in first Count to the end]: Then add two more Counts like the first ^{3d and 4th} *and second Counts*, confining the bribe to twenty guineas to vote for Coghlan: Two more Counts like the third and fourth Counts to ^{5th and 6th} *vote for Widmore: Common conclusion to the whole.* ^{Counts.}

V. LAWES.

Wiltshire, to wit. William Kennebrook, esquire, puts in his ^{Final judgment} *place W. B. his attorney, against F. Ranger in a plea of debt:* ^{in this action for} *Wiltshire, to wit. The said F. R. puts in his place W. A. his* ^{want of a plea,} *attorney, at the suit of the said W. K. in the plea aforesaid:* ^{&c. &c.} *Wiltshire, to wit. Be it remembered that on Friday next after the morrow of the Holy Trinity in this same term, before our lord the king at Westminster, comes W. K. esquire, by W. B. his attorney, and brings into the court of our lord the king, before the king himself now here, his bill against F. R. being in the custody of the marshal of, &c. in a plea of debt, and there are pledges for the prosecution thereof, to wit, J. D. and R. R. and the said bill follows in these words, to wit: Wiltshire, to wit. W. K. esquire, complains of F. R. being, &c. &c. [here set forth the declaration to the end, omitting the pledges]; and the said F. R. by W. A. his attorney, comes and defends the wrong and injury, when, &c. but says nothing in bar or preclusion of the said action of the said William, whereby he remains therein wholly undefended; therefore it is considered that the said William do recover against the said F. R. his said debt above demanded, and also ten pounds for his damages which he hath sustained, as well on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in that behalf expended, adjudged to the said William by the court of our said lord the king now here, with his assent, and the said F. is in mercy,*

V. LAWES.

BERKSHIRE, to wit. Jacob Pleydell Bouverie, commonly ^{Against an un-} *called lord viscount Folkestone, complains against Richard Belcher,* ^{qualified person} *&c. of a plea that he render to him twenty pounds of, &c. which* ^{for carrying a} *he owes to and unjustly detains from him, &c. for that the said* ^{gun, killing a hare,} *Richard after the last day of Michaelmas term now last past, and* ^{&c. 5. Ann.} *within six months next before the exhibiting of this bill, to wit,* ^{Vide 26. Geo. 2.} *he, &c. &c. did use a certain instrument called a gun for the destruction of the game of this kingdom, the same then and there being an engine used for the destruction of the game of this kingdom, and be the said Richard then and there being a person not qualified by the laws of this realm so to do, contrary to the form of the statute in that case made and provided; whereby and by force*

2d Count.

of the statutes in such cases made and provided, and action hath accrued to the said Jacob Pleydell Bouverie, commonly called lord viscount Folkestone, being the person who first prosecuted for the said offence, to demand and have of and from the said Richard the sum of five pounds, parcel of the said sum of twenty pounds above demanded: And also for that the said Richard after the said last day of Michaelmas term, and within six months next before the exhibiting of the bill of the said Jacob Pleydell Bouverie, commonly called, &c. to wit, on, &c. at, &c. *did keep a certain lurcher for the destruction of the game of this kingdom*, he the said Richard being then and there a person not qualified by the laws of this realm so to do, contrary to the form of the statute in such case lately made and provided, whereby and by force of the statutes in such case made and provided an action hath accrued to the said Jacob Pleydell Bouverie, commonly called, &c. being the person who first prosecuted, &c. from the said Richard the sum of five pounds, other and parcel of the said twenty pounds above demanded: And also for that the said Richard after the said last day of Michaelmas term now last past, and within six months next before the exhibiting the bill of the said J. P. B. commonly, &c. afterwards, to wit, on, &c. *did expose to sale a certain hare*, he the said Richard then and there being a person not qualified by the laws of this realm to kill game, &c. &c. to demand and have of and from the said Richard for his said last-mentioned offence other five pounds, other parcel of the said twenty pounds above demanded: And also for that, &c. &c. [same as last, only PARTRIDGE]; yet the said Richard, although often requested, hath not rendered to the said Jacob, &c. the said sum of twenty pounds or any part thereof; but to render the same to him he the said Richard hath hitherto wholly refused, and still doth refuse, to the damage of the said J. &c. of twenty pounds; and therefore he brings suit, &c.

3d Count.

4th Count.

Against defend-
ant for catching
fish. 5. Geo. 3.

MIDDLESEX, to wit. A. complains of B. &c. of a plea that he render to him ten pounds of lawful, &c. which he owes to and unjustly detains from him; for that whereas the said B. after the first of June 1765, and within six months next before the exhibiting this bill, to wit, on, &c. at, &c. in, &c. *did take, kill, and destroy a certain fish*, to wit, one pike, in and from a certain pond thereof of him the said A. (the same not then and there being in any park or paddock, or in any garden, orchard, or yard adjoining, or belonging to any dwelling-house, but then and there being in other enclosed ground, to wit, in a certain close there called Blace Acre, then being private property) he the said B. at the time he so took, killed, and destroyed the said fish, not having any just right or claim to take, kill, or carry away such fish in or from the said pond, contrary to the form of the statute in such case made and provided, by reason whereof, and by force, &c. an action hath accrued to demand and have of and from the

said

said B. for the said offence five pounds, parcel of the said sum of ten pounds above demanded: And the said A. further says, that *ad Count.* the said B. afterwards and after the said first day of June 1765, and within six months next before the exhibiting this bill, to wit, on, &c. *did attempt to kill and destroy fish* in a certain other pond thereof of him the said A. being then and there stocked and stored with fish, to wit, pike, perch, roach, &c. (the same pond not then and then being, &c.) he the said B. at the time he so attempted to take, kill, and destroy the said fish as last aforesaid, not having any just right or claim to take, &c. by reason whereof, &c. yet, &c.

MIDDLESEX, to wit. A. complains of B. being, &c. of a plea that he render to him fifteen pounds of, &c. which he owes to him and unjustly detains, &c.; for that the said B. after the last day of Easter term now last past, and within six months next before the commencement of this suit, to wit, on, &c. at, &c. did keep a certain greyhound dog for the destruction of the game of this kingdom, he the said B. being a person not qualified by the laws of this realm so to do, contrary to the form of the statutes in such case made and provided, whereby an action hath accrued to the said A. being the person who first prosecuted for the same offence, to demand and have of the said B. for his said offence five pounds, parcel, &c.: (2d Count, for using a greyhound, not within statute: 3d Count, for exposing to sale a hare, &c. &c.)

Declaration for keeping a greyhound, not qualified.

MIDDLESEX, to wit. B. late of, &c. was summoned to answer A. who prosecuteth as well for himself in this behalf, as for the poor of the parish of W. of a plea that he render the said poor of the said parish, and the said C. who sues as aforesaid, ten pounds of, &c. which he owes to them and unjustly detains, &c.; and whereupon the said A. who as well, &c. by his attorney, complains, that the said B. after the last day of Michaelmas term now last past, and before the suing out of the original writ of the said A. who as well, &c. to wit, on, &c. at, &c. did keep certain engines called wire snares, to wit, eight wire snares for the destroying the game of this kingdom, he the said B. being a person not qualified by the laws of this realm so to do, contrary to the form of the statute in such case made and provided, whereby an action hath accrued to the said A. who sues in this behalf as well for himself as for the poor of the said parish (in which said parish the said offence was committed), to demand and have of and from the said B. for his said offence five pounds, parcel of the said ten pounds: And also that the said B. after the said last day of Michaelmas term now last past, and before the suing out of the original writ of the said A. who as well, &c. that is to say, on, &c. at, &c. did use certain other engines called wire snares, to wit, eight wire snares for the destruction of the game of this kingdom, he

On 5. Ann. c. 14. s. 4. for keeping wire snares to destroy game. V. de 2. Geo. 3. c. 19. by which penalty is given to informer, but action to be brought within six months.

2d Count.

he the said B. then being a person not qualified by the laws of this realm so to do, contrary to the form, &c. whereby and by force, &c. an action hath accrued to the said A. who sues in this behalf as well for himself as for the said poor of the said parish, in which said parish the said last-mentioned offence was committed, to demand and have of the said B. for his last-mentioned offence the said sum of five pounds, residue of the said ten pounds; nevertheless the said B. although often requested, &c. &c. &c.

On 4. Geo. 2. c. 28. for double the value of the rent held for not quitting after notice from the landlord.

Vide a Count on this statute, 4. Geo. 2. c. 48. for holding after notice in writing given by the landlord. 4. Burr. Rep. p. 2694.

MIDDLESEX, to wit. A. B. debtor of our lord the present king comes before the barons of this exchequer on, &c. in this term, by C. D. her attorney, and complains by bill against B. E. present here in court the same day of a plea that he render to her thirty pounds of lawful, &c. which he owes to and unjustly detains from her; for that whereas the said A. on, &c. demised to the said B. the said several pieces of land following, to wit, &c. &c. in the county of, &c. to have and to hold the said several pieces of land, with the appurtenances, to the said B. from the twenty-fifth day, &c. in the year aforesaid, for and during the term of one whole year from thence next ensuing, and fully to be complete and ended, at and under the yearly rent of thirty pounds of lawful, &c. to be paid to the said A. at the feasts of St. Michael the Archangel, and the Annunciation, &c. then next following, by even and equal portions, the first payment thereof to begin and be made on the feast day of, &c. then next following; by virtue of which said demise the said B. entered into the said demised premises, with the appurtenances, and held and enjoyed the same by virtue of the said demise during the said term, and the said B. being so possessed thereof, the reversion thereof belonging to the said A. the said A. afterwards and before the determination of said term, that is to say, on, &c. at, &c. demanded and gave notice in writing to the said B. for the delivering up of the possession of the said demised premises to her the said A. at the end and determination of that term; nevertheless the said B. not regarding the statute in such case lately made and provided, nor the penalty therein contained, after demand and notice given in writing as aforesaid, for the delivering possession thereof as aforesaid, to the said A. did not deliver the possession of the aforesaid premises to the said A. but wilfully held over the same, and continued in possession thereof, and kept the said A. from her possession of the said demised premises from the expiration of the said term until and upon the feast of, &c. contrary to the form of the statute in such case lately made and provided: And the said A. further says, that the said lands so detained as aforesaid by the said B. after the end of the said term as aforesaid, were during the time of the detaining thereof as aforesaid, of the yearly value of thirty pounds, that is to say, at, &c.; and by reason of the said premises, and according to the form of the said statute an action hath accrued to the said A. to demand and have of the said B. the said thirty pounds, being double

able the value of the said lands so wilfully held over and de-
 ned as aforesaid, after the end of the said term by the said B.
 the space of time before mentioned, during which the said
 ls were so wilfully held over and detained after the determina-
 of the said term for which they were so demised as aforesaid;
 rtheless, &c.

MIDDLESEX, to wit. A debtor of our lord the present king On 11. Geo. 2.
 es before the barons of this exchequer on the twelfth day of for holding over
 uary in this same term, by B. D. his attorney, and complains after notice
 ill against B. present here in court the same day of a plea to quit the
 he render to the said A. one hundred and twelve pounds of premises.
 al money of Great Britain, which he owes to him and un- 4. Geo. 2. gives
 7 detains for this; that whereas the said B. on, &c. held and double rent where
 ned that part of a tenement called by the name of, &c. situate tenants hold o-
 eing in the said parish of, &c. together with all houses, out- ver after notice
 s, &c. together with privilege of burning lime of the said from the land-
 s tenant thereof, under a demise thereof to him made at the lord.
 y rent of fifty-six pounds, payable by two even and equal por-
 , to wit, twenty-eight pounds parcel thereof, at or upon the
 lay of, &c. and the other twenty-eight pounds, residue thereof,
 upon the twenty-ninth day of, &c. yearly, during the said de-
 : And the said A. further says, that the said B. so holding and
 ing the said demised premises, with the appurtenances, and the
 y and privilege aforesaid of the said A. as his tenant thereof as
 said, by virtue of the said demise, he the said B. afterwards and
 g the continuance of the said demise, that is to say, on, &c. at,
 gave notice in writing to the said A. of his the said B's in-
 m of quitting his possession of the said demised premises at the
 of St. Michael then next; nevertheless the said B. not re-
 ng the statutes in such case lately made and provided, nor
 g the penalty therein contained, he the said B. at the feast
 : Michael next after such notice in writing was given by the
 l. to the said A. as aforesaid, did not quit, but held over and
 ned the same from the said A. and continued and after the
 east day of Michael, that is to say, for the space of twelve
 n then next following, contrary to the form of the statute,
 and the said A. in fact says, that the said messuage, lands,
 and premises, with the appurtenances, wilfully held
 and detained by the said B. from the said A. during all the
 time the said B. so held over and detained the same as afore-
 said the said A. were of the yearly value of fifty-six pounds,
 at, &c. by reason whereof, and also by force of the
 Statute, an action hath accrued to the said A. to demand and
 of the said B. one hundred and twelve pounds, being double
 of the messuage, lands, tenements, and premises so wil-
 fully held over and detained by the said B. from the said A. for
 the space of time before mentioned during which the said B. so
 held over and detained the same, &c.; nevertheless, &c.

K 3

Michaelmas

Michaelmas Term, 28. Geo. III.

Declaration on
the statute 32.
Hen 8. cap. 9.
for purchasing a
bad title.

Qu. In and to,
or is only.

2d Count.

MIDDLESEX, to wit. James Noyes, who sues as well for our sovereign lord the now king as for himself in this behalf, complains of Michael Schoole being, &c. in a plea that he render to our said lord the king, and to him the said James, who sues as aforesaid, pounds of lawful money of Great Britain, which he owes to and unjustly detains from them, &c.; for that whereas one J. H. pretending right *in and to* certain messuages, closes, lands, tenements, and hereditaments, with the appurtenances, situate, lying, and being in the several parishes of St. Mary Newington, and St. Mary Lambeth, in the county of Surry, and not regarding the statute in such case made and provided after the making of the said statute, to wit, on, &c. at, &c. in, &c. did unlawfully, and contrary to the said statute, bargain and sell to the said Michael his the said J. H.'s said pretended right *in and to* the said messuages, &c. with the appurtenances, whereas in truth and in fact neither the said J. H. nor any of his ancestors, nor any other person or persons by whom he then claimed the said premises, with the appurtenances, had been in possession of the same, nor of the reversion or remainder thereof, nor taken the rents or profits thereof by the space of one whole year next before the aforesaid bargain made: And whereas in truth and in fact the right of the said J. H. *in and to* the said messuages, &c. with the appurtenances, at the time of the said bargain made, was a pretended right against the aforesaid statute, and the said Michael then and there well knew the same, to wit, at, &c.; yet the said Michael so then and there knowing the said right of the said Michael to be such pretended right as aforesaid, but not regarding the statute in such case made and provided, nor the penalty therein contained, did then and there, that is to say, on, &c. at, &c. and contrary to the aforesaid statute buy and take of the said J. H. the said pretended right of him the said J. H. *in and to* the said messuages, &c. with the appurtenances, so bargained and sold to him the said Michael as aforesaid, the said messuages, &c. then and there at the said time of to buying and taking such pretended right thereto as aforesaid, being of a large value, to wit, of the value of pounds of lawful, &c. to wit, at, &c. by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said James, who sues as aforesaid, to demand and have from the said Michael for our said lord the king and himself the said James, who sues as aforesaid, the said sum of pounds, the said value of the said messuages, &c. so by him the said Michael bought and taken as aforesaid, parcel of the said pounds above demanded: And the said James, who sues as aforesaid, in fact further saith, that the said Michael not regarding, &c. nor fearing the penalty therein contained, on, &c. at, &c. in, &c. unlawfully and contrary to the said statute, by means of a certain indenture of assignment then and there made and executed by the said J. H. to the said Michael, did obtain and get the right of the said J. H. to certain other messuages, &c. situate, lying, and being in the said several

several parishes of, &c. the said right of the said J. H. to the said last-mentioned messuages, &c. with the appurtenances, then and there at the said time of so obtaining and getting the same as aforesaid, being a pretended right, and the said J. H. or any of his ancestors, nor any other person or persons by whom he then claimed the said last-mentioned premises not having been in possession of the same, nor of the reversion or remainder thereof, nor having taken the rents and profits thereof by the space of one whole year next before the said pretended right thereto was obtained and got as aforesaid by the said Michael, and the said Michael then and there at the said time of his so obtaining and getting such pretended right as last aforesaid, well knowing that the said right of the said J. H. to the said last-mentioned premises, with the appurtenances, at the time of his so obtaining and getting the same as aforesaid was a pretended right, whereby and by force of the said statute an action hath accrued, &c. &c. : And the said James, who 3d Count. as aforesaid, in fact further saith, that the said Michael, not regarding the statute aforesaid, nor fearing the penalty therein contained after the making thereof, to wit, on, &c. at, &c. bought of the said J. H. a certain pretended right and title which the said J. H. then and there claimed to have in and to certain other messuages, &c. situate, &c. &c. being then and there of great value, that is to say, of the value of pounds, of which said last-mentioned premises or any part thereof neither the said J. H. nor his ancestors, nor any other person or persons had been in possession nor seized of the same, nor of the reversion or remainder thereof, nor had taken the rents or profits thereof or of any part thereof by the space of one whole year next before the said buying of the said pretended right and title in and to the same as aforesaid, he the said Michael then and there at the said time of his so buying such pretended right and title as last aforesaid, knowing the same, and against the facts and premises last aforesaid, contrary to the form and effect of the statute aforesaid, whereby an action hath accrued, &c. : And whereas the said J. H. pretending right to certain 4th Count. messuages, &c. situate, &c. &c. and not regarding the statute in that case made and provided, after the making of the said statute, to wit, on, &c. at, &c. wilfully and contrary to the said statute, did bargain and sell to the said Michael his the said J. H.'s pretended right to the said last-mentioned messuages, with the appurtenances, whereas in truth and in fact neither the said J. H. nor any of his ancestors, nor any other person or persons by whom he then claimed the said last-mentioned premises, with the appurtenances, had been in possession of the same, nor of the reversion or remainder thereof, nor taken the rents or profits thereof by the space of one whole year next before the said last-mentioned bargain made ; whereas in truth and in fact the right of the said J. H. to the said last-mentioned premises at the time of the said last mentioned bargain made, was a pretended right against the aforesaid statute, the said Michael then and there well knew the same, to wit, &c. yet the said Michael so then and there knowing the said

5th Count.

last-mentioned right of the said J. H. to be such pretended right as last aforesaid, but not regarding, &c. nor fearing, &c. did then and there, that is to say, on, &c. and contrary to the aforesaid statute, buy and take of the said J. H. the said pretended right of his the said J. H. in and to the said last-mentioned messuages, & with the appurtenances, so bargained and sold to him the said Michael as aforesaid the said last-mentioned messuages, &c. then and there at the said time of so buying and taking of such pretended right thereto as aforesaid, being of a large value, to wit, of the value of five hundred pounds of lawful, &c. to wit, at, &c. for the reason whereof, and by force of the statute in such case made and provided, an action hath accrued, &c. &c.: And the said James who sues as aforesaid, in fact further saith, that the said Michael not regarding, &c. nor fearing, &c. on, &c. at, &c. unlawfully and contrary to the said statute, by means of a certain other indenture of assignment then and there made and executed by the said J. H. to the said Michael, did obtain and get the right of the said J. H. to certain other messuages, &c. situate, &c. the right of the said J. H. to the said last-mentioned messuages, & with the appurtenances, then and there at the said time of so obtaining and getting the same as aforesaid, being a pretended right and the said J. H. or any of his ancestors, nor any other person, &c. &c. by the space of one whole year next before the said pretended right thereto was so obtained and got as aforesaid by the said Michael, and the said Michael then and there, at the said time of his so getting and obtaining such pretended right as last aforesaid, well knowing that the said right of the said J. H. to the said last-mentioned premises, with the appurtenances, at the time of so obtaining and getting the same as aforesaid, was a pretended right, whereby and by force of the said statute an action hath, &c. &c.: And the said James, who sues as aforesaid, in fact further saith, that the said Michael not regarding, &c. nor fearing, &c. after the making thereof, to wit, on, &c. bought of the said J. H. a certain pretended right and title which the said J. H. then and there claimed to have in and to certain other messuages, &c. situate, &c. being then and there of great value, that is to say, of the value of five hundred pounds, of which said last-mentioned premises or any part thereof the said J. H. nor his ancestors, nor any other person, &c. by the space of one whole year next before the buying of the said pretended right and title in and to the same as aforesaid, he the said Michael then and there at the time of his buying such pretended right and title as last aforesaid, knowing the same, and all other the facts and premises last aforesaid, contrary to the form and effect of the statute aforesaid, whereby and by force of the said statute an action hath accrued, &c. &c.: And whereas the said J. H. pretending right to a certain other close, piece or parcel of land, with the appurtenances, situate, &c. and not regarding, &c. nor fearing, &c. after the making of the said statute to wit, on, &c. did unlawfully and contrary to the said statute bargain and sell to the said Michael his the said J. H.'s said

6th Count.

7th Count.

te

led right to the said last-mentioned close or piece or parcel of
 , with the appurtenances, whereas in truth and in fact neither
 aid J. H. nor any of his ancestors, &c. &c. by the space of
 whole year next before the said last-mentioned bargain made,
 whereas in truth and in fact the right of the said J. H. to the
 last-mentioned close or piece or parcel of land, with the ap-
 nances, at the time of the said last-mentioned bargain made,
 pretended right against the aforesaid statute; and the said
 ael then and there well knew the same, yet the said Michael
 n and there knowing the said right, &c. &c. (as in first
 t): And the said James, who sues as aforesaid, in fact fur- 8th Count
 uth, that the said Michael not regarding, &c. nor fearing,
 n, &c. at, &c. by means of a certain other indenture of af-
 ent, &c. &c. (as the second Count exactly, only omitting
 effuages, &c. and making this Count for the close or piece 9th Count
 cel of land): And the said James, who sues as aforesaid, in
 urther faith, that the said Michael not regarding, &c. nor
 g, &c. after the making thereof, to wit, on, &c. bought of
 id J. H. &c. &c. (exactly the same as the third Count, only
 e close instead of messuages, &c.): And whereas the said 10th Count
 pretending right to one moiety or half part of and in a cer-
 ther close or piece or parcel of land, with the appurte-
 s, situate, &c. and not regarding, &c. nor fearing, &c. to
 on, &c. did unlawfully and contrary to the said statute bar-
 and sell to the said M. his the said J. H.'s said pretended
 to the said moiety or half part of and in the said last-men-
 t close or piece or parcel of land, with the appurtenances,
 as in truth and in fact neither the said J. H. nor any of his
 tors, &c. &c. by the space of one whole year next before the
 mentioned bargain made, and the right of the said J. H. there-
 the time of the last-mentioned bargain made, was a pretend-
 ht against the aforesaid statute, and the said Michael then
 here well knew the same, to wit, at, &c.; yet the said Mi-
 . &c. (as before, only making it for a moiety): And the said 11th Count
 s, who sues as aforesaid, in fact further faith, that the said
 ael not regarding, &c. nor fearing, &c. on, &c. unlawfully
 contrary, &c. &c. (exactly the same as the fifth Count, only
 of saying the messuages, &c. &c. say the moiety, &c. as
 tenth Count.): And the said James, who sues as aforesaid, 12th Count
 further faith, &c. &c. (the same as the sixth Count, with
 alterations as between the fifth and tenth Counts. Com-
 mutation, *qui tam*. Damage twenty pounds.

V. LAWES.

to wit. J. S. who sues as well for our sovereign Declaration a-
 as for himself in this behalf, complains of J. M. be- ganst the de-
 of, &c. of a plea that he render to our said lord fendant forexer-
 of a butcher, not having served his apprenticeship cising the trade
 to the same.

the

the king and the said J. S. who sues as aforesaid, ten pounds of lawful money of Great Britain, which he owes to our said lord the king and the said J. S. who sues as aforesaid, and unjustly detains; for that whereas the said J. M. not regarding the statutes in such case made and provided, nor fearing the penalty therein contained, after the first day of May, in the fifth year of the reign of our sovereign lady Elizabeth, late queen of England, &c. to wit, on, &c. at, &c. for the space of five months then next following, did set up, occupy, use, and exercise the art, trade, mystery, or manual occupation of a butcher (the same being an art, trade, mystery, or manual occupation used and exercised within the kingdom of England, upon the said first day of May, in the said fifth year of the reign of her said late majesty), when in fact he the said J. M. was never educated in the art, trade, mystery, or manual occupation aforesaid, nor served as an apprentice in the same for the space of seven years, against the form of the said statute, whereby and by force of the statute in such case made and provided, the said J. M. hath forfeited to our said lord the king and to the said J. S. who sues as aforesaid, ten pounds, one moiety thereof to our said lord the king, and the other moiety thereof to the said Joseph the informer, whereby an action hath accrued to our said lord the king and the said J. S. who sues as aforesaid, to demand and have of the said J. M. the said ten pounds, that is to say, forty shillings for every month of the said five months in which the said J. M. did set up, use, and exercise the art, trade, mystery, and manual occupation of a butcher as aforesaid, against the form of the statute, amounting in the whole to the said ten pounds; yet the said J. M. although often requested, hath not yet paid unto our said lord the king and the said J. S. who sues as aforesaid, the said ten pounds, but hath wholly refused and still doth refuse to pay the same, whereby he the said J. S. says that he is injured, and hath sustained damage to the value of twenty pounds; and therefore the said Joseph, as well for our lord the king as for himself, brings his suit.

Declaration upon the statute of 5th of Queen Elizabeth against a man for exercising a trade, not having served as an apprentice therein for the space of seven years.

SURRY, to wit. S. M. who sues as well for our sovereign lord the king as for himself in this behalf, complains of J. M. being in the custody of, &c. of a plea that he render to the said lord the king and the said S. M. who sues as aforesaid, forty-four pounds of lawful money of Great Britain, which he owes to and unjustly detains from them; for that whereas by a certain act made in the parliament of our sovereign lady Elizabeth, late queen of England, held at Westminster in the county of Middlesex, on, &c. in the fifth year of the reign of the said late queen, amongst other things, it was enacted by the authority of the said parliament, that after the first day of May then next coming after the making of the said act, it should not be lawful to any person or persons other than such who at the time of the making of that act did lawfully use and exercise any art, mystery, or manual occupation,

tion, to set up, occupy, use, or exercise any craft, mystery, or occupation at the time of the making the same act, used or occupied within the realm of England or Wales, except he should have been brought up therein seven years at the least as an apprentice, in manner and form as in the said act is mentioned, upon pain that every person wilfully offending or doing the contrary of that act should forfeit and lose for every default forty shillings for every month, one moiety of which said forfeiture should be to the said queen, her heirs, and successors, and the other moiety thereof to him or them that should sue for the same in any of her majesty's courts of record by action of debt, information, bill of complaint, or otherwise, in which actions or suits no protection, warranty of law, or essoin should be allowed, as by the said act of parliament amongst other things more fully appears: X And the said M. who sues as aforesaid, further says, that the art and mystery of a weaver, at the time of the making of the said act of parliament, was an art and mystery used and occupied within this kingdom of England, to wit, at, &c. in, &c. and that the said S. M. at the time of the making of the said act, did not use any art, mystery, manual occupation used within this kingdom, to wit, at, &c. that the said J. M. not regarding the said statute, nor fearing the penalty therein contained, after the first day of May in the said year of the reign of our said sovereign lady Elizabeth, late queen of England, &c. to wit, on, &c. at, &c. did set up, occupy, use, and exercise the said art, trade, mystery, or manual occupation of a weaver, and did occupy, use, exercise, and continue the said art, mystery, or manual occupation by him set up as aforesaid from the twenty-sixth day of, &c. A. D. 1739, at, &c. in, &c. for the space of eleven months then next following, when in fact he the said J. M. was never educated or brought up in the said art, mystery, or manual occupation as aforesaid, nor served as an apprentice in the same for the space of seven years, according to the form of the statute aforesaid, whereby and by force of the said statute the said John forfeited to our said lord the king and the said J. M. who sues as aforesaid, twenty-two pounds, that is to say, forty shillings for every month of the said eleven months in which the said J. M. did set up, occupy, use, exercise, and continue the said art, trade, mystery, or manual occupation of a weaver in form aforesaid, whereby an action hath accrued to the said M. who sues as aforesaid, to demand and have for the said lord the king the said twenty-two pounds, parcel of the said forty-four pounds above demanded: And the said S. M. who sues as aforesaid, further says, that the art and mystery of a rug-maker, &c. &c. (finish this act same as the first from this mark X, only instead of the word weaver, say rug-maker.)

SURREY,

in and seller of coals by the chaldron or lesser quantity with-
miles round the cities of London and Westminster, to wit, (4) "and with-
(4) in, &c. did there sell and deliver to the said B. E. by the in six calendar
a certain quantity of coals as and for ten chaldrons of coals, months next be-
said last-mentioned coals did then and there (5) deliver as fore the exhibit-
ten chaldron of coals, nevertheless the said Thomas did not ing the bill of
measure or cause the said last-mentioned coals so sold and deli- the said David,
aforsaid to be justly measured with a lawful bushel, to wit who sues as
ch a bushel as was and is described in and by an act of aforsaid, to wit,
nt made in the twelfth year of the reign of her late ma- at, &c. m, &c.
xen Ann, intituled, "An Act," &c. &c. according to the sold to the said
the statute in such case made and provided, but omitted B. E. another
ected so to do, and therein wholly failed and made default, quantity"
to the form of the statute, &c. &c. whereby, &c. (as (5) "carry to
only fifty pounds): And also, &c. &c. (4th Count the said B. E.
he third, omitting what is in Italic, and inserting what in certain sacks
margin, and conclude as follows): Yet the said Thomas, then and there
often requested, hath not yet rendered the said three made use of by
pounds above demanded or any part thereof to our said the said Thomas
now king and the said David who sues as aforsaid, or to for that pur-
them, but he to render the same hath hitherto wholly re- pose, and did
d still refuses, to the damage of the said David who sues there deliver the
id of twenty pounds; and therefore, as well for our said said last-men-
ing as for himself in this behalf, he brings his suit, &c. tioned coals"

purpose, put or cause to be put three bushels of coals"

G. Wood.

Middlesex, to wit. G. M. complains of W. C. being, Declaration on
plea that he render eighty pounds which, &c.; for that statute for
William being a person resident at B. in the parish of H. keeping a grey-
county of Middlesex, after the first of July 1785, men- bound for the tak-
a certain act of parliament made and passed at Westmin- ing of hares with-
the twenty-fifth year of the reign of our lord the now king, out taking out a
"An Act for repealing an Act made in the twenty- certificate.
year of the reign of his present majesty, entitled An 25. Geo. 3.
granting to his Majesty certain Duties on Certificates
with respect to the killing of Game, and for granting
penalties in lieu thereof;" to wit, on, &c. at, &c. not re-
the statute in such case made and provided, nor fearing the
therein contained, did use a certain greyhound for the
a hare, without having obtained a certificate from the
the peace for the said county of Middlesex, where the said
added as aforsaid, stamped, as by the said first-men-
the directed in that behalf, of his having delivered in a pa-
ment in writing containing the name and place of abode
William, to the said clerk of the peace or his deputy,
office of the clerk of the peace or of the deputy clerk
of

of the peace for the said county, in such manner as by the first-mentioned act is directed and appointed against the form of the statute in such case made and provided (and he the said William not then and there being or acting as a game-keeper under by virtue of any deputation or appointment duly registered); by reason whereof, and by force of the statute in such case made and provided, the said William hath forfeited for the said offence the sum of twenty pounds; whereby and by force of the statute an action hath accrued to the said George to demand and have of from the said William the said sum of twenty pounds so forfeited as aforesaid, parcel of the said sum of eighty pounds above demanded: And the said G. further says, that the said W. being a person so resident as aforesaid, further disregarding the statute in such case made and provided, nor fearing the penalties therein contained, after the first day of July 1785 mentioned in the said act of parliament, and after the making and passing of the said act of parliament, to wit, on, &c. did use a certain other dog for the disturbance of game, without having obtained a certificate in the manner as in and by the said first-mentioned act directed and appointed, against the form of the statute in such case made and provided; by reason whereof, &c. &c. (as in first Count. 3d Count same as the second, only using a greyhound for the taking of a hare; 4th Count, for using a dog for the destruction of game. Common conclusion in debt). Damages twenty pounds. &c.

V. LAW

Declaration on statute 2. Geo. 3. l. 1. for killing a pheasant before the time allowed by the act.

MIDDLESEX, to wit. John Johnson complains of William Cheasbey being, &c. in a plea that he render ten pounds, &c. that the said William, after the first day of June 1762, and in six months next before the commencement of this suit, and between the first of February and before the first of October, and between the same, to wit, on the twenty-seventh of September A.D. 1786, at, &c. killed and destroyed one pheasant, contrary to the form of the statute in such case made and provided, whereby an action hath accrued, &c. (2d Count, for having in his possession one pheasant, the said last-mentioned pheasant not having been taken in the season allowed by the act in such case made and provided, or kept in any mew or breeding-place), contrary to the form of, &c. whereby and by force of the statute, &c. an action hath accrued, &c. (Common conclusion in debt.) Damages ten pounds. Suit, &c.

V. LAW

Declaration in debt on the statute against an ale-house keeper, for having in his possession a hare, exposing to sale a hare, and using bounds for the destruction of hares, without having obtained a certificate.

LANCASHIRE, to wit. T.W. esquire, complains of J.S. in a plea that he render to the said plaintiff the sum of ten pounds, which he owes to and unjustly detains from him; for having in his possession a hare, exposing to sale a hare, and using bounds for the destruction of hares, without having obtained a certificate.

the said defendant not regarding the statute in such case made and provided, nor fearing the penalties therein contained, within six months before the exhibiting the bill of the said plaintiff, to wit, on, &c. at, &c. in, &c. had in his custody and possession one hare, the said hare then and there being the game of this kingdom (and he the said defendant then and there being an alehouse keeper), contrary to the form of the statute in such case made and provided, whereby and by force of the statute in such case made and provided, the said defendant forfeited for his said offence the sum of five pounds, whereby and by force of the statute in such case made and provided, an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said sum of five pounds so forfeited as aforesaid, parcel of the said sum of thirty pounds above demanded: And the said Thomas further says, that the said defendant not regarding, &c. nor fearing, &c. within six months, &c. to wit, on, &c. at, &c. did expose to sale one hare, the said hare then and there being the game of this kingdom, he the said defendant not being qualified in his own right to kill game, nor being entitled to such hare under any person so qualified, contrary to the form of, &c. whereby, &c. (to the end as before): And the said plaintiff further says, that the defendant not regarding, &c. nor fearing, &c. within six months, &c. to wit, on, &c. at, &c. did use hounds for the taking or destroying of a hare, without having obtained such certificate in such manner as in the statute in that case made and provided is directed, contrary to the form of, &c. whereby, &c. (as before, only instead of five pounds by twenty pounds); yet the said defendant, although often requested, hath not paid the said sum of thirty pounds or any part thereof to the said Thomas, but to pay the same to him hath hitherto wholly refused, and still doth refuse, to the damage of the said plaintiff of thirty pounds; and therefore he brings his suit,
T. BARROW.

I have considered this case, and have no doubt on the principle on which the counts have always gone in suffering money to be paid into court; but that the defendant will be permitted to pay one penny in this case, in actions *qui tam* it is not permitted; but the statutes, by putting the whole penalty in this case to the plaintiff, have put it on the same footing with all other actions of debt. It was done in a similar action of one penny in the case of Webb against Punt, 22 A. 2217, and in another of two

Counts defendant was allowed to pay one penny into court. See 2. Blackitt. Rep. 1052. Opinion as to paying money into court in action of debt on the game laws.

I would advise defendant to take out a summons before a judge for plaintiff to shew why, on payment of one penny and costs, the proceedings should not be stayed, which he probably will consent to do; if he does not, I have no doubt but the judge will make an order to pay it into court, upon which a rule may be had; I know of no other way of getting rid of the action.
T. BARROW.

MIDDLESEX, to wit. David Whitaker, who sues as well Declaration on the statute of our sovereign lord the king as for himself in this behalf, complains of Thomas Wilson, being, &c. in a plea that he render to the first Count, a defendant for not having the sum of money paid to him as an apprentice fee inserted in the indictment in words in full length.

our

our said lord the king, and to said plaintiff who sues as aforesaid, three hundred and thirty pounds of lawful, &c. which he owes to and unjustly detains from, &c.; for that whereas after the first day of May, which was A. D. 1715, and before the exhibiting the bill of said plaintiff, who sues as aforesaid, to wit, on the seventh day of June, A. D. 1780, one Mary Ann Wells did by a certain indenture in writing, duly executed, and bearing date the day and year last aforesaid, put herself apprentice to said defendant, and he said defendant did then and there by such as aforesaid, accept and take said Mary Ann Wells as his apprentice, to learn his art, and with him, after the manner of an apprentice, to serve from the date of said indenture unto the full end and term of seven years from then next following, to be fully complete and ended, in which said indenture were contained the covenants, articles, contracts, and agreements relating to the service of said Mary Ann Wells as such apprentice as aforesaid, to wit, at the parish of St. Mary Matfelon, otherwise Whitechapel, in the county of Middlesex aforesaid: + And said plaintiff, who sues as aforesaid, in fact further saith, that before the exhibiting the said bill of him said plaintiff, to wit, on the day and year last aforesaid, and at and in the parish aforesaid, in the county aforesaid, there was given and paid to, and he said defendant did then and there receive with and in relation to said Mary Ann Wells as such apprentice to him said defendant as aforesaid, the sum of thirty pounds of like lawful, &c. + which said sum of thirty pounds so given and paid with and in relation to said Mary Ann Wells as such apprentice as aforesaid, ought to have been inserted and written in words at length in the aforesaid or some other indenture, containing the covenants, articles, contracts, and agreements relating to the service of said Mary Ann Wells as such apprentice as aforesaid, according to the form of the statute in such case made and provided; yet said plaintiff who sues as aforesaid avers, that said sum of thirty pounds so given and paid with and in relation to said Mary Ann Wells as such apprentice as aforesaid, was not at any time before or at or upon the execution of the aforesaid indenture, or afterwards truly inserted or written in words at length, or in any other manner in the aforesaid indenture or in any other indenture containing the covenants, articles, contracts, and agreements relating to the service of said Mary Ann Wells as such apprentice as aforesaid; but that the said defendant so being such master as aforesaid, to insert and specify the same in manner aforesaid, or in any other manner whatsoever in the aforesaid or in any other indenture containing the covenants, articles, contracts, and agreements relating to the service of said Mary Ann Wells as such apprentice as aforesaid, wholly neglected and omitted, contrary to the form of the statute in such case made and provided, whereby and by force of the statute in such case made and provided, he said defendant so being such master as aforesaid, to whom to whose use said sum of thirty pounds was given and paid for and in respect of said Mary Ann Wells as such apprentice as aforesaid, forfeited double the said sum

of thirty pounds so given and paid as aforesaid with said Mary Ann Wells as such apprentice as aforesaid, to wit, at the parish aforesaid, in the county aforesaid, by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to said plaintiff, who sues as aforesaid, to demand and have for our said lord the king and himself said plaintiff of and from said defendant the sum of sixty pounds, being double the sum given and paid with the aforesaid Mary Ann Wells as such apprentice as aforesaid, parcel of the said sum of three hundred and twenty pounds above demanded: [2d Count, go on as in the first, until you come to this mark +, omitting what is in *Italic*, and inserting what is in the margin, then proceed as follows]; whereby and by force of the statute in such case made and provided, he said defendant as master of said Mary Ann Wells, became liable to pay, and ought to have paid to our lord the now king, according to the directions of the statute in such case made and provided, the sum of fifteen shillings, being the sum of sixpence for every twenty shillings of said sum of thirty pounds so given and paid with and in relation to said Mary Ann Wells as such apprentice as aforesaid, within one month next after the date of said indenture; but said plaintiff, who sues as aforesaid, in fact further saith, that said defendant being such master of said Mary Ann Wells as aforesaid did not on the day and year last aforesaid, or any other time within one month next after the date of said indenture, pay, nor hath he at any other time since hitherto paid the said sum of fifteen shillings to our said lord the king, but hath wholly neglected so to do, and failed and made default therein, contrary to the form of the statute in such case made and provided, whereby and by force of the statute in such case made and provided he said defendant forfeited the sum of fifty pounds, to wit, at the parish last aforesaid, in the county of Middlesex aforesaid; by reason whereof and by force of the statute in such case made and provided, an action hath accrued to said plaintiff, who sues as aforesaid, to demand and have for himself and our said lord the king of and from said defendant the said sum of fifty pounds so forfeited as aforesaid, other parcel of said three hundred and thirty pounds above demanded: [3d Count, as first, to this mark +, then proceed as follows]; and said plaintiff, who sues as aforesaid, in fact further saith, that before the exhibiting, &c. of him said plaintiff, and also before the execution of said last-mentioned indenture, to wit, on the day and year last aforesaid, and at and in the parish last aforesaid, in said county of Middlesex, one John Neal did give and pay to said defendant, and said defendant did then and there receive of and from said J. N. with and in relation to said Mary Ann Wells as such apprentice to him said defendant as last aforesaid, the sum of ten pounds of lawful, &c. and said defendant did also then and there agree and contract (that is to say with said J. N.) for other ten pounds of like lawful money, and with one J. N. for the other ten pounds of like lawful, &c. to be by them respectively given and paid to him said defendant with and in relation to said Mary Ann Wells as such apprentice as last aforesaid,

2d Count, for not paying the duty of sixpence for every 20s.

which said several sums of money so given and paid and agreed and contracted for as aforesaid, in the whole amounted to a large sum of money, to wit, the sum of thirty pounds of like, &c.; and said plaintiff, who sues as aforesaid, in fact further saith, that said sum of thirty pounds [&c. as in 1st Count, from this mark+ to the end]; 4th Count, [like the 2d, only making some difference a between the 3d and 1st]; 5th Count, [like the 1st to this mark+ then proceed as follows], and said plaintiff, who sues as aforesaid in fact further saith, that before the exhibiting of the bill of him said plaintiff, to wit, on the day and year last aforesaid, at and in the parish last aforesaid, in the county aforesaid, there was given and paid to, and the said defendant did then and there receive with an in relation to said Mary Ann Wells as such apprentice as last aforesaid the sum of ten pounds of lawful money of Great Britain, and said defendant did then and there agree and contract for two other sums of money, to wit, the several and respective sums of ten pounds, and ten pounds of like lawful money to be given and paid him and in relation to the aforesaid Mary Ann Wells as such apprentice to him said defendant as last aforesaid, which said several sums of money so given and paid and agreed and contracted for as last aforesaid, in the whole amounted to a large sum of money, to wit, the sum of thirty pounds of lawful, &c.: And said plaintiff who sues as aforesaid, in fact further saith, that said sum of thirty pounds [&c. go on as in 1st Count, from this mark+ to the end]; 6th Count [like the 2d, only make the same difference as between the 5th and 1st]; yet said defendant, although often requested hath not yet rendered the said sum of three hundred and thirty pounds above demanded, or any part thereof to our said lord the king, and said plaintiff, who sues as aforesaid, or either of them but he to render the same to our said lord the king and said plaintiff, who sues as aforesaid, or to either of them hath hitherto wholly refused, and still doth refuse, to the damage of said plaintiff who sues as aforesaid of ten pounds; and therefore as well for our said lord the king as for himself he brings his suit, &c.

V. LAWES.

The above cause was tried, when took on the third Count. Vide the following postea.

Postea in a *quidam* action, where costs are given, and where plaintiff takes a verdict on a particular Count.

Afterwards, that is to say, on the day and in the place within contained, before William earl Mansfield, the chief justice within named, John Way, gentleman, being associated unto said chief justice, by force of the statute in such case made and provided, the within named plaintiff who sues as aforesaid, as well for our sovereign lord the king as for himself in this behalf, came by his attorney within contained, and the within named defendant although solemnly demanded came not, but made default; therefore let the jurors of the jury within mentioned be taken against him by default, and the jurors of that jury being summoned come, who to the truth of the within contents being chosen, tried, and sworn, as is said

ixty pounds in the third Count of the within declaration
ned, parcel of the said three hundred and thirty pounds
also mentioned and demanded, say upon their oath, that
endant doth owe the said sixty pounds in said third Count
ned to our said lord the king and said plaintiff who sues as
d, in manner and form as said plaintiff hath within declared,
y affects the costs and charges of said plaintiff who sues as
d about his suit in that behalf expended to forty shillings,
to the residue of the said three hundred and thirty pounds
mentioned and demanded, they the said jurors on their oath
it the said defendant doth not owe same or any part thereof
said lord the king and the said plaintiff who sues as afore-
manner and form as said defendant hath in his said plea by
him pleaded alledged; therefore, &c.

V. LAWS.

MIDDLESEX, to wit. Thomas Watkins, who sues in this Declaration on
as well for the treasurer of the county of Middlesex as for Stat. 22. Geo. 3.
complains of T. Kirby being in the custody, &c. of a c. 31. f. 1. a-
it he render to the said treasurer, and to the said plaintiff, gainst the holder
as as aforesaid, the sum of pounds of lawful money of a post-office for
at Britain, which he owes to said treasurer and said plaintiff, voting at an elec-
as as aforesaid, and unjustly detains from them; for that tion for member
the city and liberty of Westminster is an ancient city or of parliament.
and for a long time past two citizens thereof have been
and sent, and have used and been accustomed, and of right
o have been elected and sent to serve in parliament for the
y and liberty; and whereas before the committing of the
offences hereinafter mentioned, the high bailiff of the said
l liberty (being the proper officer in that behalf) had, by
of the king's writ directed to the sheriff of the county of
lex, and of the said sheriff's precept thereupon, begun and
n proceeding to the election of two citizens to serve in
ent for the said city and liberty, and on that occasion the
onourable Charles James Fox, and divers, to wit, two
ersons, being respectively citizens of the said city and li-
bere and stood as candidates at and for such election, to
the parish of St. Paul's, Covent-garden, within the said city
ty, in the county aforesaid; and whereas the said defendant
and at the time of committing of the offence hereinafter
ed, was a person employed under the post-master general,
to say, the postmaster general of our lord the now king,
ing the revenue of the post-office, and said defendant was
a citizen of the said city and liberty, to wit, at the parish
in the county aforesaid; yet the said defendant being a
and a person so employed as aforesaid, not regarding the
that case made and provided, and fearing penalties therein
did after the making the same statute, after the first day
1781 therein mentioned, to wit, on the first day of

April 1784, at the parish aforesaid, give his vote for the election of the right honourable Charles James Fox, so being such citizen as aforesaid, to for the said city and liberty in parliament for the said city and liberty, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute an action hath accrued to said plaintiff, who sues as aforesaid, to demand and have of and from said defendant for the treasurer of the said county of Middlesex, and for himself said plaintiff, who sues as aforesaid, the sum of one hundred pounds, parcel of the said sum of pounds above demanded.

Michaelmas Term, 24. Geo. III.

Declaration on
stat. 2. Geo. 3.
c. 19. s. 1. & 4.
for buying and
having in posses-
sion partridges.

ESSEX, to wit, William Dunningham the elder complains of Francis Smith, one of the attornies of, &c. of a plea that he render to said plaintiff eighty pounds of lawful, &c. which he owes to and unjustly detains from him; for that whereas the said defendant after the first day of June, which was in the year of Our Lord 1762, and within six months next before the exhibiting the bill of the said plaintiff in this behalf, between the twelfth day of February, A. D. 1783, and the first day of September in the same year, to wit, on, &c. at, &c. bought eight partridges (the said partridges and each and every of them then and there being of the game of this kingdom), contrary to the form of the statute in such case made and provided, whereby and by force of the statute in such case made and provided, the said defendant forfeited for his said offence forty pounds, that is to say, five pounds for each and every of the said partridges so bought by the said defendant as aforesaid; and whereby and by force of the statute in that case made and provided, an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said sum of forty pounds so forfeited as aforesaid, parcel of the said sum of eighty pounds above demanded: And said plaintiff further says, that the said defendant after, &c. [a 2d Count like the 1st, only making the offence "had in his possession," instead of "bought"]; yet the said defendant, although often requested, hath not paid the said sum of eighty pounds or any part thereof to said plaintiff; but to do this hath hitherto wholly refused, and still doth refuse, to the damage of the said plaintiff of ten pounds; and therefore he brings his suit.

H. RUSSELL.

Declaration in
debt on stat. 9.
Ann. c. 14. s. 2.
for money lost
at cards, the
loser against the
winner of the
money.

MIDDLESEX, to wit. Charles Hardy complains of Robert Hall being in the custody of the marshal, &c. in a plea that he render to said plaintiff forty-four pounds twelve shillings and sixpence of lawful, &c: which he owes to and unjustly detains from him, &c. for that the said defendant within three months next before the commencement of this suit, to wit, on the day of August, A. D. 1781, at and in the parish of and county of Middlesex, received to the use of said plaintiff the sum of forty-four

pounds twelve shillings and sixpence of lawful money of Great Britain whereby an action hath accrued to said plaintiff, according to the form of the statute made in the ninth year of the reign of sovereign lady Anne, late queen of Great Britain, &c. enacted, "An Act for the better preventing of excessive and deceitful fishing," to demand and have of said defendant the said sum of forty-four pounds twelve shillings and sixpence above demanded; and said defendant, although often requested, hath not yet rendered the said sum of forty-four pounds twelve shillings and sixpence above demanded, or any part thereof to the said plaintiff; and he to render the same or any part thereof to said plaintiff hath wholly refused, and still refuses so to do, to said plaintiff the sum of ten pounds; and therefore he brings his suit, &c.

V. LAWES.

Michaelmas Term, 13. Geo. III.

IMBERLAND, to wit. Andrew Greene complains of Declaration on
 a Grendall being, &c. of a plea that he render to him 5. Geo. 2. c. 14.
 y pounds of lawful money of Great Britain, which he owes at suit of the
 d unjustly detains from him, for this, to wit, that the said owner of a
 b, after the first day of June 1775, to wit, on, &c. did take, fishery, for fish-
 and destroy certain fish, to wit, one hundred salmon, &c. ing. without
 n a certain river called the River Derwent, then not being leave.
 park or paddock, or in any garden, orchard, or yard ad-
 g or belonging to any dwelling-house, but being in certain
 ed ground then being private property, without the consent
 said Andrew, who then and there and before was and yet is
 of the fishery of the said River D. where the said fish were
 m, killed, and destroyed as aforesaid, against the form of the
 e in such case made and provided, whereby and by force of
 id statute lately in such case made and provided, the said
 b forfeited for his said offence the sum of five pounds of law-
 money of Great Britain, to the said Andrew, being the owner
 e said fishery where the said fish were taken, killed, and de-
 d as aforesaid; by reason whereof and by force of the statute
 h case lately made and provided an action hath accrued, &c. 2d Count.
 Second Count like the first, only say that he *attempted to take,*
and destroy]: And also for that the said Joseph, after the said 3d Count.
 y of, &c. to wit, on, &c. did take, kill, and destroy cer-
 b, to wit, one hundred salmon, &c. [same as first Count 4th Count
 and]: And also for that the said Joseph, after the said first
 b, to wit, on, &c. did attempt to take, kill, and de-
 b, &c. [as in the second Count. Common conclusion in

Declaration on the 32. Geo. 2. c. 28. against a serjeant at mace for the city of London, for carrying the plaintiff to an ale-house and suffering liquor to be called for without reading the clauses prescribed, and for carrying him to gaol within 24 hours, the plaintiff having been arrested by the defendant under a plaint levied against him in the sheriff's court (setting out the custom for that purpose), and also under different executions from the court of conscience.

LONDON, to wit. J. D. H. complains of J. H. being, &c. of a plea that he render to him the said plaintiff two hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from him; for that whereas by a certain act made at the parliament of our late sovereign lord George the Second, late king of, &c. held at Westminster, in the county of Middlesex, by prorogation, on the twenty-third day of November 1758, and in the thirty-second year of the reign of his said late majesty, entitled, "An Act for the relief of Debtors with respect to the
 " Imprisonment of their Persons, and to oblige Debtors who shall
 " continue in Execution in Prison beyond a certain Time, and for
 " Sums not exceeding what are mentioned in the Act, to make
 " Discovery and deliver upon Oath their Estate for their Creditors,
 " Benefit," it was amongst other things enacted, &c. as by the said act amongst other things, relation being thereto had, may more fully and at large appear; and whereas the city of London now is, and from time whereof the memory of man is not to the contrary, there hath been a certain court of record held in the compter, commonly called the Poultry Compter, situate in London aforesaid, to wit, in the parish of St. Mildred the Virgin, in the Poultry, in the ward of Cheap, before one of the sheriffs of the city aforesaid for the time being; and whereas within the said city there now is, and from time immemorial there hath been a certain ancient and laudable custom there used and approved of, that when and so often as any plaint hath been levied in the city aforesaid, according to the custom of the said city, before either of the sheriffs of the said city, at the suit of any person in a plea of trespass on the case, that any person being a serjeant at mace of the said city, to wit, a serjeant at mace to the said sheriff and a minister of the court aforesaid, at the request of the party so levying such plaint, hath been used by reason of his office after the entry of such plaint in the book of the compter aforesaid, to take and arrest by his body any such person against whom any such plaint hath been levied, that he might have his body at the next court of our lord the king before such sheriff for the time being, in the Guildhall of the same city, situate in the parish of St. Lawrence in the Old Jewry, in the ward of Cheap, in London aforesaid, according to the custom of the city aforesaid to be held, to answer to such person in such plaint so levied in the plea aforesaid, without any other precept or other command to such serjeant at mace and minister of the court aforesaid in that behalf directed or to be directed, to wit, at London aforesaid, in the parish of St. Mildred, in, &c.; and whereas one J. U. heretofore, to wit, on, &c. to wit, at &c. in, &c. came into the court of our lord the king of record, before J. T. esquire, then one of the sheriffs of the city of London aforesaid, in his compter, situate in the aforesaid parish of, &c. in the ward of, &c. according to the custom of the city aforesaid there held, and then and there according to the custom of the city aforesaid levied against the said plaintiff by the name of, &c. his certain plaint in a plea of trespass on the case, to the damage of the said J. U. of ten pounds, which said plaint was then and there entered in the book of the compter aforesaid,

aforesaid, at the compters aforesaid, situate as aforesaid, as in such cases is used according to the custom of the city aforesaid, in these words, "to wit, J. H. at the suit of J. U. case ten pounds," which said plaint was marked for bail for five pounds and upwards, by virtue of an affidavit of the cause of action before then made and duly assented in the said court, according to the form of the statute in such case made and provided, to wit, at London, &c. and whereas the said J. U. so levied his plaint aforesaid with intention that he the said J. U. might, according to the custom of the said city from time immemorially used and approved of in the same city, implead the said plaintiff by the said name of J. H. in the said court for a certain debt by the said J. U. alledged and pretended to be due and owing from the said plaintiff by the name of J. H. to the said J. U. in a plea of trespass on the case on a promise alledged by the said J. U. to have been made to him by the said plaintiff by the said name of J. H. to pay such pretended debt in consideration that the said plaintiff by the said name of J. D. H. was so indebted to him the said J. U. to wit, at London aforesaid, in the parish and ward aforesaid; and whereas afterwards, to wit, on, &c. at, &c. the said J. U. required the said defendant (he the said defendant from thence until, and at, and after the several and respective times of the committing the several and respective offences hereafter mentioned, being a serjeant at mace of the said city, to wit, a serjeant at mace to the said J. T. esquire, then such sheriff of the city aforesaid, and an officer and minister of the said court), that he should take and arrest the said plaintiff by the said name of J. H. by his body, to answer to the said J. U. of and in the plea of the plaint aforesaid, according to the custom of the said city, by virtue of which said premises, to wit, of the plaint aforesaid so marked for bail as aforesaid, and of the said request of the said J. U. he the said defendant so being such serjeant at mace and an officer and minister of the court aforesaid, afterwards, to wit, on, &c. within the jurisdiction of the said court, to wit, at London aforesaid, in, &c. took and arrested the said plaintiff by his body for the cause aforesaid, to wit, by the colour of the action or plaint aforesaid, at the suit of the said J. U. in the action or plea aforesaid, and had the said plaintiff in his custody at the suit of the said J. U. for the cause aforesaid, to wit, in the action or plea aforesaid: And the said plaintiff in fact further saith, that the said defendant so having arrested him the said plaintiff, and having and detaining him in his custody as aforesaid by virtue and in colour of the action, plea, or process aforesaid, he the said defendant so being such serjeant at mace and an officer and minister of the court aforesaid, afterwards, to wit, on, &c. at, &c. carried him the said plaintiff to a public victualling or drinking house belonging to the J. P. situate and being in London aforesaid, to wit, in the parish and ward last aforesaid, and did there permit liquors to be sold for and had by the said plaintiff, without the said defendant or any other person whatsoever shewing, producing, or reading to the said plaintiff the clauses in the said act in that particular mentioned,

2d Count.

mentioned, and by the said act required to be shewn by the said defendant to the said plaintiff, contrary to the form of the statute in such case made and provided, for which offence he the said defendant, so being such serjeant at mace, according to the form and effect of the said statute, then and there, to wit, at London aforesaid, in the said parish of, &c. forfeited to the said plaintiff (he the said plaintiff being the person thereby aggrieved) the sum of fifty pounds, whereby and by force of the said statute an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said fifty pounds so forfeited as aforesaid, parcel of the said two hundred pounds above demanded: And the said plaintiff in fact further saith, that the said defendant so having arrested him the said plaintiff, and having and detaining him in his custody as aforesaid by virtue and under colour of the action, plea, or process aforesaid, he the said defendant afterwards, to wit, on, &c. at, &c. carried him the said plaintiff to the gaol or prison of the said court of the said sheriff, to wit, to the gaol, commonly called the Poultry Compter, situate in London aforesaid, within the jurisdiction of the said court, to wit, in the parish and ward last aforesaid, within twenty-four hours from the time of the said arrest, to wit, within the space of three hours from the time of the said arrest, against the will of the said plaintiff, and contrary to the form of the statute in such case made and provided, for which said last-mentioned offence he the said defendant so being such serjeant at mace and an officer and minister of the said court, according to the form and effect of the statute, then and there, to wit, at London aforesaid, in the parish and ward aforesaid, forfeited to the said plaintiff (he the said plaintiff being the person thereby aggrieved) another sum of fifty pounds, whereby and by force of the said statute an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said sum of fifty pounds so forfeited as last aforesaid, other parcel of the said two hundred pounds above demanded: And the said plaintiff further saith, that the said defendant being such serjeant at mace of the city of London aforesaid, afterwards, and whilst he was such officer, to wit, such serjeant at mace, that is to say, on the said sixth day of, &c. within the jurisdiction of a certain court of our lord the king, in and for the said county of Middlesex, commonly called the court of conscience, to wit, at London aforesaid, in, &c. took and arrested the said plaintiff by his body by virtue of a certain process of execution issuing out of the said last-mentioned court against the said plaintiff at the suit of one J. H. for a certain sum of money, to wit, the sum of forty shillings and threepence, recovered by the said J. H. in the said last-mentioned court, and had the said plaintiff in his custody in execution at the suit of the said J. H. for the cause last aforesaid: And the said plaintiff in fact further saith, that the said defendant so having arrested him the said plaintiff, and having and detaining him in his custody as aforesaid by virtue of and under colour of the said process of execution, he the said defendant afterwards, to wit, on, &c. at, &c. carried him the said plaintiff to gaol, that is to say,

3d Count.

y, to the gaol or prison of the said court of conscience, to wit, the gaol or prison, commonly called the Poultry Compter, situate London aforesaid, within the jurisdiction of the said court, to t, in, &c. within twenty-four hours, &c. &c. &c. [as the second Count to the end]: And the said plaintiff further 4th Count. h, that the said defendant so being, &c. and whilst, &c. that is ay, on, &c. within, &c. took and arrested the said plaintiff by body by virtue of a certain other process of execution issuing, . against, &c. for a certain sum of money, to wit, the sum of steen shillings and eightpence, recovered by the said R. M. in the last-mentioned court against the said plaintiff, and then and re had the said plaintiff in his custody in execution at the suit he said R. M. for the cause last aforesaid: And the said plain- in fact further saith, that the said defendant so having arrested e the said plaintiff, and having and detaining him in his custody aforesaid by virtue and under colour of the said last-mentioned xels of execution, he the said defendant afterwards, to wit, on, : carried him the said plaintiff to gaol, &c. &c. [as in the for- #Count]; yet, &c. &c. [Common conclusion in debt.]

Easter Term, 25. Geo. III.

SURRY, to wit. William Barr complains of William Ben- Declaration on a, being, &c. of a plea that he render to the said plaintiff the the 31. Geo. 2. a of one hundred and eight pounds of lawful, &c. which he c. 28 against a m to and unjustly detains from him; for that whereas hereto- bailiff for extor- tion and a Count u, to wit, on, &c. in the twenty-fourth year of the reign of on the 23. Hen. 6. c. 6. for treble r lord the now king (the *teste* of the *latitat*) there issued out of damages. e court of our said lord the king, before the king himself here a said court then and still being holden at Westminster, in the my of Middlesex), a certain writ of our said lord the king call- a *latitat*, at the suit of one M. J. against the said plaintiff, di- ed to the sheriff of Surry, by which said writ our said lord the e commanded the said sheriff that he should take the said plain- if he should be found in his bailiwick, and him safely keep, so that he said sheriff might have his body before our said lord the king Westminster, on, &c. to answer to the said M. J. in a plea of tres- and also to a bill of the said M. J. against the said plaintiff for two and two hundred pounds of debt, according to the custom of aid court of our said lord the king, before the king himself, to xhibited, and that the said sheriff should have there then that upon which said writ there was and is an indorsement re- ing bail to be taken from the said plaintiff for one thousand hundred pounds by virtue of an affidavit of the cause of action he said M. J. against the said plaintiff in that behalf filed of ed in the said court of our said lord the king, before the king self, according to the form of the statute in such case made and ed, and which said writ with the said indorsement thereon wards, and before the return thereof, to wit, on, &c. at, &c, delivered to W. A. esquire, who then and from thence until, and

32. Geo. 2. c.
28. l. 1.

and at, and after the arrest hereafter next mentioned, was sheriff of the said county of S. to be executed in due form of law, by virtue of which said writ, the said W. A. so being sheriff of the said county of S. as aforesaid, afterwards, and before the return thereof, to wit, on, &c. at, &c. in, &c. for having execution of the said writ, duly made his warrant in writing directed to the said defendant, who then and from thence until, and at, and after the committing of the offence hereafter next mentioned was one of the bailiffs of the said sheriff of the said county of S. by which said warrant the said sheriff of the said county of S. commanded the said defendant to take the said plaintiff if he should be found in the said sheriff's bailiwick, and him safely keep, so that the said sheriff might have his body before our said lord the king at Westminster, at the return of the said writ, to answer to the said M. J. in the plea and to the bill aforesaid, which said warrant was also marked for bail for one thousand one hundred pounds, and which said warrant so marked for bail afterwards, and before the return of the said writ, to wit, on the same day and year last aforesaid, at Southwark aforesaid, in the said county of Surry, was delivered to the said defendant, then being one of the bailiffs of the said sheriff of the said county of Surry aforesaid, to be executed in due form of law; by virtue of which said warrant he the said defendant as such bailiff afterwards, and before the return of the said writ, to wit, on the eleventh day of March, in the twenty-fourth year aforesaid, at Southwark aforesaid, in the said county of Surry, and within the bailiwick of the sheriff of the same county, took and arrested the said plaintiff by his body, and then and there had and detained him in his custody at the suit of the said Mary Johnson, for the cause aforesaid: And the said William Barr in fact further saith, that after he had been so arrested, and whilst he remained in custody of the said defendant by virtue and under colour of the said writ and warrants for the cause, to wit, on the same day and year last aforesaid, at Southwark aforesaid, in the county of Surry, he the said defendant, then being one of the bailiffs of the said county of Surry as aforesaid, demanded, took, and received of and from the said plaintiff a certain sum of money, to wit, the sum of two pounds one shilling and eightpence of money of Great Britain, *for detaining the said plaintiff, after he the said plaintiff had given bail to the said writ*, which said sum of money so demanded, taken, and received by the said defendant of and from the said plaintiff in manner and for the cause aforesaid, then and there was and is a greater sum of money than at the time of the taking thereof was by law allowed to be taken or demanded by the said defendant of and from the said plaintiff on that occasion, contrary to the form of the statute in such case made and provided, whereby and by force of the said statute, the said defendant then being one of the bailiffs of the said sheriff of the said county of Surry as aforesaid, forfeited and became liable to pay for his said offence to the said plaintiff, being the party thereby aggrieved, the sum of fifty pounds, and thereby and by force of the said statute an action hath accrued to the said plaintiff

to

d writ our said lord the king commanded the said sheriff
he writ, the warrant, and arrest, and that whilst the
was in the defendant's custody under the said last-men-
it and warrant, as in the former Count], he the said de-
then being one of the bailiffs of the said sheriff of the said
Surry as aforesaid, demanded, took, and received of and
said plaintiff a certain sum of money, to wit, the sum of
one shilling and eightpence of lawful money of Great
for waiting till the said plaintiff had given bail to the said
mentioned writ, which said last-mentioned sum of money so
taken, and received by the said defendant of and from
plaintiff in manner and for the cause last aforesaid, then
was and is a greater sum of money than at the time of
ereof was by law allowed to be taken or demanded by the
dant of and from the said plaintiff on that occasion, con-
he form of the statute in such case made and provided,
and by force of the said statute, the said defendant then
e of the bailiffs of the said sheriff of the said county of
aforesaid, forfeited for his said last-mentioned offence to
plaintiff, being the party thereby aggrieved, the said sum
ounds, and thereby and by force of the said statute an ac-
&c. &c. &c. [as before]: And whereas heretofore, to wit,
in the twenty-fourth year aforesaid [following the last
erbatim], he the said defendant then being one of the
the said sheriff of the said county of S. as aforesaid, by
and under colour of his office as such bailiff, took of the
tiff a certain sum of money, to wit, the sum of two
that is to say, the sum of two pounds two shillings of
oney of Great Britain, *for letting the said plaintiff to bail*
said last-mentioned writ, which said last-mentioned sum of
taken, &c. &c. whereby the said plaintiff sustained da-
the amount of two pounds one shilling and eightpence,
by and by force of the said statute an action hath, &c. &c.
d and have of and from the said defendant the sum of six
ve shillings, being treble the amount of his said damages,

that time had and received to the use of the said plaintiff, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant the said last-mentioned sum of two pounds one shilling and eightpence, residue of the said sum of one hundred and eight pounds six shillings and eightpence above demanded; yet, &c. [Common conclusion in debt.] Damage twenty pounds.

Easter Term, 15. Geo: III.

Declaration on
32. Geo. 2.
c. 28. against a
sheriff's bailiff,
for carrying the
plaintiff to a pri-
vate house, and
suffering liquors
to be called for
there without
shewing the
plaintiff the
clauses in that
behalf prescrib-
ed, and for ex-
torting money
from him under
the several pre-
tences of bailing
plaintiff, keep-
ing him out of
gaol, arresting
him, and wait-
ing for bail.

MIDDLESEX, to wit. Be it remembered that in Michaelmas term last past, before our lord the king at Westminster, came William Green, by John Saunders his attorney, and brought into the court of our lord the king then there his bill against John Brook being in the custody, &c. of a plea of debt, and there are pledges for the prosecution, to wit, John Doe and Richard Roe, which said bill followeth in these words, to wit: Middlesex, to wit. William Green complains of John Brook being in the custody, &c. of a plea that he render unto him the said William two hundred and sixty pounds of lawful, &c. which he the said J. owes to and unjustly detains from the said William, &c.; for that whereas by a certain act made at the parliament of our late sovereign lord George the Second, late king of Great Britain, &c. held at Westminster, in the county of Middlesex, by prorogation, on the twenty-third day of November 1758, and in the thirty-second year of the reign of the said late king, intituled, "An Act for Relief of Debtors who shall continue in execution in Prison beyond a certain Time, and for Sums not exceeding what are mentioned in the Act to make Discovery of and deliver upon Oath their Estates for the Creditor's Benefit," it was amongst other things enacted, &c. (here follows a recital of Sect. 1. part of Sect. 2. and the whole of Sect. 3. and 12.) as by the said act, amongst other things, relation being thereto had, may more fully and at large appear: And the said William in fact saith, that after the making of the said act, and before the day of exhibiting the bill of the said William, to wit, on, &c. one G. D. sued and prosecuted out of the court of our lord the now king, before the king himself (the said court then and still being held at Westminster, in the said county of Middlesex), a certain precept of our said lord the king called a bill of Middlesex, against the said William at the suit of him the said G. D. by which said precept the said then sheriff of Middlesex was commanded that he should take the said William if he should be found in his bailiwick, and him safely keep, so that the said sheriff might have his body before the said lord the king at Westminster, on, &c. to answer to the said G. D. of a plea of trespass on the case, and also to a bill of the said G. D. against the said William for sixty pounds upon promises, according to the custom of the court of the lord the king, before the king himself to be exhibited, and that the said sheriff should then have there that precept, which said precept afterwards, and before the delivery there-

thereof to the said then sheriff of Middlesex, to be executed as hereafter is mentioned, to wit, on, &c. at, &c. he the said G. D. duly caused to be indorsed for bail for thirty pounds and upwards, according to the form of the statute in such case made and provided; which said precept so indorsed as aforesaid he the said G. D. afterwards, and before the return thereof, to wit, on, &c. at, &c. caused to be delivered to S. S. esquire and W. L. esquire, then sheriff of the said county of Middlesex, to be executed in due form of law; by virtue of which said precept the said S. S. and W. L. so being sheriff of the said county of Middlesex as aforesaid, afterwards and before the return of the said precept, to wit, on, &c. at, &c. duly made his warrant in writing, sealed with the seal of the said sheriff, directed to the said John, being a bailiff of the said sheriff of the said county of Middlesex, and by the said warrant the said S. S. and W. L. so being sheriff of the said county of Middlesex as aforesaid, then and there commanded the said John to take the said William if he might be found in his the said sheriff's bailiwick, and him safely keep, so that the said sheriff might have his body before our said lord the king at Westminster, on, &c. to answer to the said G. D. of the plea aforesaid, and which said warrant was also then and there duly marked for bail for thirty pounds and upwards, by virtue of the said precept, which said warrant so indorsed was afterwards, to wit, on, &c. at, &c. delivered to the said John to be executed in due form of law; by virtue of which said warrant he the said John then being one of the bailiffs of the said sheriff of the said county of Middlesex as aforesaid, afterwards and before the return of the said precept, to wit, on, &c. at, &c. took and arrested the said William by his body for the cause aforesaid, at the suit of the said G. D. in the plea aforesaid, and had the said William in his custody for the cause aforesaid: And the said William in fact saith, that he the said John so having arrested the said William, and having and detaining the said William under the said arrest, and in his custody as aforesaid, by virtue and under colour of the said precept and warrant, he the said John afterwards, to wit, on, &c. conveyed and carried the said William so by him the said John arrested as aforesaid to the private house of him the said John situate and being in a certain court called Spread Eagle Court in Gray's-Inn lane, in the parish of, &c. in the county of Middlesex, and there permitted liquors to be called for and had by the said William without the said John or any other person whatever shewing, producing, or reading to the said William the clauses in the said act in that particular mentioned, and the said act required to be shewn to the said William by the said John, to wit, at, &c. contrary to the tenor and effect of the said statute, for which said offence he the said John being one of the bailiffs of, &c. according to the form and effect of the said act forfeited and ought to pay to the said William, he the said William being the person thereby aggrieved, the sum of fifty pounds, whereby and by force of the said statute an action hath accrued to the said William to demand and have of and from the said

2d Count.

saïd John the saïd sum of fifty pounds so forfeited as aforesaid cel of the saïd two hundred and fifty pounds above demanded the saïd William in fact further saith, that he the saïd William ing under the saïd arrest and in the custody of the saïd John as : saïd, by virtue and under colour of the saïd precept and warra the cause aforesaid, to wit, at, &c. he the saïd John so bein of the bailiffs of the saïd sheriff of the saïd county of Midd then and there, to wit, on, &c. demanded, exacted, and to and from the saïd William, so being under his arrest and in hi tody by virtue and under colour of the saïd precept and warra aforesaid, the sum of one pound three shillings and sixpence gratuity or reward for the expences of the saïd William so under arrest and in his the saïd John's custody as aforesaid, to for the expences of bailing of the saïd action, being more was according to the tenor and directions of the saïd statute b allowed as reasonable in such case, contrary to the tenor and of the saïd statute, for which saïd offence he the saïd John, &c

3d Count.

(as before) : And the saïd William in fact further saith, th being, &c. &c. (as before), the sum of one pound three shi and sixpence as a gratuity or reward for keeping the saïd .W so arrested and in his custody as aforesaid out of the gaol or of the saïd court of our saïd lord the king, before the king hi contrary, &c. (as in second Count) : And the saïd Willi

4th Count.

fact further saith, that he the saïd John afterwards, to wit &c. at, &c. demanded, took, and received of and from th William, so being under his arrest and in his custody by and under colour of the saïd precept and warrant as aforesai sum of one pound three shillings and sixpence as his fee fo arresting and taking the saïd William by virtue and under c of the saïd precept and warrant for the cause aforesaid in m aforesaid, which saïd sum of, &c. then was and is a greater l money than at the saïd time of the saïd taking and arresting saïd William in manner aforesaid, or at the time of takir same was by law allowed to be taken or demanded by the saïc of and from the saïd William for such arresting and taking c saïd William by virtue and under colour of the saïd precep warrant for the cause aforesaid, contrary, &c. (as before) : the saïd William in fact further saith, that the saïd John wards, to wit, on, &c. demanded, took, and received of and the saïd William, so being by the saïd John arrested and taken so being in his custody, another sum of one pound three shi and sixpence for waiting on the saïd William, so being unde arrest and in his custody as aforesaid, by virtue and under c of the saïd precept and warrant for the cause aforesaid, until l saïd William had given bail for his appearance according l exigence of the saïd precept, which saïd last-mentioned su &c. was and is a greater sum than at the time of the saïd arre detaining and taking of the saïd William by the saïd in manner aforesaid, or at the time of taking thereof was b allowed to be taken or demanded by the saïd John for his saïd

ing on and with the said William so being in the custody of the said John, contrary, &c.; yet, &c. (Common conclusion in debt.)

J. MORGAN.

Michaelmas Term, 7. Geo. III.

SHROPSHIRE, to wit. Thomas Price the younger, gentleman, complains of Robert Fox the younger, being, &c. of a plea Declaration on 11. Geo. 2. c. 19. c. 3. by landlord against tenant, for fraudulently removing goods to prevent a distress. that he render to him forty-six pounds eight shillings of lawful money which he owes to and unjustly detains from him; for that whereas he the said Thomas on, &c. in, &c. did demise unto the said Robert divers lands and tenements, with the appurtenances, and belonging to him the said Thomas, to wit, one messuage, one tenement, one bakehouse, forty acres of land, &c. &c. with the appurtenances, situate, lying, and being at, &c. in, &c. to have and to hold unto the said Robert, his executors, administrators, and assigns, from the said twenty-fifth day of March, for and during and unto the full end and term of one whole year from henceforth next ensuing, and fully to be complete and ended, and from year to year as long as the said Thomas should please, holding and paying therefore yearly and every year during so long time as the said Richard should hold and enjoy the said demised premises unto the said Thomas, his heirs, or assigns, the yearly rent or sum of thirty-three pounds of lawful, &c. on two usual days or days of payment in the year, that is to say, on the feast of St. Michael, &c.; by virtue of which said demise the said Robert entered into the said demised premises, with the appurtenances, and held and enjoyed the same from the said twenty-fifth day of, &c. until the said twenty-fifth day of, &c.; and the said Robert being so possessed thereof, thirty-three pounds of the rent aforesaid for one year ended on, &c. at that day were due and in arrear from the said Robert to the said Thomas, and the said arrears of rent being so due and unpaid to the said Thomas as aforesaid, he the said Robert well knowing the premises, but not regarding the statute in that case lately made and provided, nor the penalty therein contained, afterwards, to wit, on, &c. (the said arrears of rent then being due and unpaid, did wilfully, knowingly, and fraudulently take away and carry off from the said demised premises divers goods and chattels of him the said Robert, to wit, one horse, &c. of the value of five pounds, two feather-beds, &c. of the value of five pounds twelve shillings; amounting together to the sum of ten pounds twelve shillings, to prevent the said Thomas from claiming the same for the said arrears of rent so due and payable to him the said Thomas as aforesaid, contrary to the form and effect of the said statute in such case lately made and provided, by reason whereof and by force of that statute an action hath accrued to the said Thomas to demand and have of the said Robert twenty-three pounds four shillings, being double the value of the said goods and chattels so as aforesaid fraudulently carried off from the said Robert.

2d Count.

saïd demised premises, parcel of the saïd forty-six pounds eight shillings above demanded: And whereas the saïd Robert on, &c. was tenant of the saïd Thomas of other lands and tenements, with the appurtenances, situate, lying, and being at, &c. in, &c. by virtue of a demise to him thereof made by the saïd Thomas long before that time, at and under the yearly rent of thirty-three pounds reserved and made due and payable by the saïd Robert to the saïd Thomas at the feasts of, &c. by even and equal portions: And whereas thirty-three pounds of the last-mentioned rent for one year ended on the saïd twenty-fifth day of, &c. were on the saïd twenty-fifth day of, &c. due and in arrear from the saïd Robert to the saïd Thomas his landlord; nevertheless the saïd Robert well knowing the premises, but not regarding the saïd statute in such case lately made and provided, nor the penalty therein contained, afterwards, to wit, on, &c. the saïd last-mentioned arrears of rent being then due and unpaid, did wilfully, knowingly, and fraudulently convey away and carry off from the saïd demised premises last-mentioned divers other goods and chattels of him the saïd Robert, to wit, one other horse colt, and one other filly colt, of the price of five pounds, two other feather-beds and bolsters, one other iron furnace, nine other pewter dishes, twelve other pewter plates, one other tea-kettle, one other mashing kettle, and another parcel of old iron, of the value of six pounds twelve shillings, amounting together to the sum of eleven pounds twelve shillings, to prevent the saïd Thomas from distraining the same for the saïd last arrears of rent so due and payable to him the saïd Thomas as aforesaid, contrary to the form and effect of the saïd statute in such case lately made and provided; by reason whereof and by virtue of that statute an action hath accrued to the saïd Thomas to demand and have of the saïd Robert other twenty-three pounds four shillings, being double the value of the saïd goods and chattels so as aforesaid fraudulently carried off from the last-mentioned demised premises, residue of the saïd forty-six pounds eight shillings above demanded. (Common conclusion is debt.)

Easter Term, 21. Geo. III.

Declaration on
11. Geo. 2. c.
10. s. 3 for as-
sisting the plain-
tiff's tenant in
a clandestine re-
moval of goods
to prevent a dis-
covery.

MIDDLESEX, to wit. Lady Frances Burgoyne and James Johnson, esquire, complains of William Moreton being, &c. of plea that he render to the saïd Frances and James two hundred pounds of lawful, &c. which he owes to and unjustly detains from them, &c.; for that the saïd Frances and James on, &c. at Westminster, in the county of Middlesex, demise to one Elizabeth Doue a certain messuage, with the appurtenances, of them the saïd Frances and James, situate, lying, and being at Delahay-street, Westminster in the saïd county of Middlesex, to have and to hold the same to saïd Elizabeth from the feast-day of the birth of Our Lord Christ then next, from one year then next following, and so from year to year for so long time as they the saïd Frances and James and th

And Elizabeth should please, yielding and paying therefore by the said Elizabeth to the said Frances and James for and during so long time as the said Elizabeth should hold the said demised premises, with the appurtenances, by virtue of the said demise, the yearly rent or sum of pounds of, &c. to be paid quarterly, that is to say, on the feast day of the Annunciation of the Blessed Virgin Mary, the feast of St. John the Baptist, the feast of St. Michael the Archangel, and the feast day of the Birth of Our Lord Christ, by even and equal portions, by virtue of which said demise the said Elizabeth afterwards, to wit, on, &c. entered into the said demised premises, with the appurtenances, and was possessed thereof, and by virtue of the said demise held the same continually from the commencement of the said demise until and at and after the time of the fraudulent conveying and carrying away of the said goods and chattels hereinafter next mentioned of and from the said demised premises: And the said Frances and James further say, that ten pounds ten shillings of the rent aforesaid for one quarter of a year, ending on the feast of the Annunciation of the Blessed Virgin Mary in the year last-mentioned, were in arrear and unpaid from the said Elizabeth to the said Frances and James; and the said demise so being in full force as aforesaid, thereupon afterwards, and just immediately before the said ten pounds ten shillings of the said rent so became due and in arrear as aforesaid, that is to say, on, &c. certain goods and chattels of the said Elizabeth, to wit, &c. &c. of the said Elizabeth were upon the said demised premises, to wit, at Westminster aforesaid, and the said goods and chattels so being upon the said demised premises, and the said demise so being in full force as aforesaid, the said Elizabeth during the continuance of the said demise, and just and immediately before the ten pounds ten shillings of the rent aforesaid so became due and payable and in arrear to the said Frances and James aforesaid, that is to say, on, &c. and in the night of the same day at Westminster aforesaid, did fraudulently convey and carry away the same goods and chattels and every part thereof and from the said demised premises, with intent to prevent and hinder the said Frances and James from distraining the same for the sum of ten pounds ten shillings of the rent aforesaid, when the same should become due and payable and in arrear to the said Frances and James, and the said goods and chattels so fraudulently conveyed and carried away off and from the said demised premises with such intent as aforesaid, from the time of the so fraudulently conveying and carrying away the same as aforesaid, hitherto hath continued, and still keeps and continues from and off the said demised premises, to wit, at Westminster aforesaid, the said William, on the same day and year last-mentioned at Westminster aforesaid, did wilfully and knowingly aid and assist the said Elizabeth in the said fraudulent conveying and carrying away of the said goods and chattels, and in the said keeping and continuing of the said goods and chattels so fraudulently conveyed and carried away off and from the said demised premises as aforesaid.

said, with intent to prevent and hinder the same from being trained by the said Frances and James for the said ten pounds shillings of the rent aforesaid, when the same should become and payable and in arrear therein to the said Frances and James wit, at Westminster, contrary to the form, &c.; and the Frances and James aver, that the said goods and chattels so fraudulently conveyed and carried away off and from the said demised premises as aforesaid, at the time of the conveying and carry away the same off and from the said demised premises, were of value of twenty-five pounds, to wit, at Westminster aforesaid whereby and by force of the said statute in that case made and provided an action hath accrued to the said Frances and James to demand and have of and from the said William fifty pounds, to double the value of the said goods and chattels so fraudulently conveyed and carried away off and from the said demised premises aforesaid, parcel of the said two hundred pounds above demanded.

There were three other Counts in the declaration, one of them charging the defendant with wilfully and knowingly concealing the goods.

Michaelmas Term, 26. Geo. III.

CHESHIRE, to wit. Anthony Mackie complains of Thomas Ansdell being, &c. of a plea that he render to the said Anthony the sum of twenty pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, &c.; that whereas the said Anthony, on the first day of May A 1783, at Northwich, in the county of Chester aforesaid, demised to the said Thomas a certain messuage or tenement, with the appurtenances, of him the said Anthony, situate, lying, and being in the parish of Great Budworth, in Northwich aforesaid, in the county of Chester aforesaid, from thenceforth for and during the space of one whole year from thence next ensuing, and fully to be complete and ended, and so on from year to year for so long as both the said parties should please, yielding and paying unto the said Anthony for the same the yearly rent or sum of ten pounds every year; by virtue of which said demise he the said Thomas afterwards, to wit, on, &c. at, &c. entered into the said demised premises, with the appurtenances, and became and was possessed thereof for the said time to him thereof demised as aforesaid the reversion thereof with the appurtenances belonging to the said Anthony: And the said Anthony further says, that the said Thomas being so possessed of the said premises, with the appurtenances the reversion thereof belonging to the said Anthony as aforesaid he the said Thomas afterwards, and whilst he continued to be in possession of the said premises, with the appurtenances, as tenant thereof the said Anthony, under and by virtue of the aforesaid demise to him the said Anthony, wit, on, &c. at, &c. gave notice to the said Anthony of his intention of quitting the said premises on, &c.: And the said Anthony further says, that the said Thomas did no

Declaration on 11. Geo. 2. c. 19. s. 18. at the suit of a landlord against his tenant for double rent, who held over after notice to quit given by himself.

ver up the possession of the said demised premises, with the
ances, to the said Anthony, according to his said notice,
o deliver up the same to the said Anthony then and there
eglected and refused, and on the contrary thereof the said
continued in the possession of the aforesaid premises, with
tenances, from the said first day of May, A. D. 1784, un-
on the first day of May, in the year of Our Lord 1785, be-
pace of one whole year, by reason whereof and by force
atute in such case made and provided an action hath ac-
the said Anthony to demand and have of the said Thomas
of twenty pounds, being double the rent or sum which the
mas should otherwise have paid to the said Anthony for
said premises during the said time that he so continued to
the same, to wit, at Northwich; yet, &c. [Common
n in debt.]

le of the act for which dou-
given, directing it to be sued
me manner as the single rent
been, it should seem that
would be recoverable upon a
status assumpsit. See the case

of Dagley v. Drinkwater, tried at Guild-
hall, Dec. 1785. See Debt on Simple
Contract, ante, and Assumpsit for Dou-
ble Rent, Assumpsit by Landlord and
Tenant, vol. i. p.

ION, to wit. Plaintiffs, assignees of the debts, goods,
s which were of H. Grubb a bankrupt, according to the
e statutes made and now in force concerning bankrupts,
of defendant being, &c. of a plea that he render to them
aintiffs three thousand three hundred pounds of lawful,
h he owes to and unjustly detains from them, &c.; for
as the said H. G. before and on the first day of January
l from thence until the issuing of the commission herein-
tioned, did use and exercise trade, and merchandize by
argaining, exchanging, bartering, and chevifance, and
that time sought his trade of living by buying and sel-
it, at London aforesaid, in the parish of, &c.; and the
so using and exercising the trade of merchandize, and
a trade of living as aforesaid, he the said H. G. on, &c.
as indebted unto one F. G. in one hundred pounds and
of lawful money of Great Britain, and being so indebted
and exercising the trade of merchandize, and seeking
a living as aforesaid, afterwards, to wit, on, &c. at, &c.
bankrupt within the intent and meaning of the several
acts and then and yet in force concerning bankrupts, or
any of them; and the said H. G. so being and continu-
ing afterwards, to wit, on, &c. in the twenty-ninth year
of our lord the now king, at the petition of the said
H. G. then a creditor of the said H. G. as aforesaid, as
well as for all other the creditors of the said H. G.
submitted in writing to the right honourable P. earl of
high chancellor of Great Britain, a certain commis-

Debt by assignees against de-
fendant for con-
cealing part of
bankrupt's per-
sonal estate viz.
a promissory
note which he
had in trust.

mission of our said lord the now king sealed with the great seal
 Great Britain, and to the court of our lord the now king now he-
 shewn, the date whereof is the same day and year last aforesaid,
 due manner issued out of his majesty's high court of chancery (the
 said court then and still being held at Westminster, in the county
 of Middlesex) against the said H. G. directing to, &c. [namely
 the five commissioners]; whereby our said lord the king did name
 appoint, assign, constitute, and ordain them as special commis-
 sioners, thereby giving unto them full powers and authority, =
 unto any four or three of them, whereof the said J. M. or J.
 were named, &c. to be one to proceed according to the statutes then
 in force concerning bankrupts, not only concerning the said bank-
 rupt, his body, lands, tenements, freehold and customary, goods, debts
 and other things whatsoever, but also concerning all other persons
 who by concealment claim, or otherwise did or should offend
 touching the premises or any part thereof, contrary to the true
 intent and meaning of the said statutes, and to do and execute all =
 every thing and things whatsoever, as well for and towards sa-
 tisfaction and payment of the said creditors as towards and for -
 other intents and purposes, according to the ordinance and pro-
 vision of the same statutes, willing and commanding the said, =
 &c. four or three of them, whereof the said J. M. and J. L. =
 be one to proceed to the execution and accomplishment of that
 majesty's commission, according to the true intent and meaning
 the same statutes, with all diligence and effect, as by the said com-
 mission more fully appears, and by force of the said several statu-
 tes the said J. L. &c. &c. three of the said commissioners named
 the said commission, afterwards, to wit, on, &c. did in due form
 of law adjudge and declare the said H. G. a bankrupt within
 true intent and meaning of the statutes made and then in force con-
 cerning bankrupts, some or one of them, that is to say, at L. afore-
 said, in, &c.: And the said plaintiffs further say, that afterwar-
 to wit, on, &c. due notice was given and published in the London
 Gazette that a commission of bankrupt was awarded and issued
 forth against the said H. G. and that he was declared a bankrupt
 to wit, at L. aforesaid, in, &c.: And the said plaintiffs further
 say, that by a certain indenture made, &c. at, &c. between
 said J. L. &c. &c. three of the said commissioners, named in the
 commission, of the one part, and the said plaintiffs of the other
 part, the one part of which said indenture, sealed with the seals
 the said J. L. &c. &c. the said plaintiffs now bring here into court
 the date whereof, &c. did order, bargain, sell, assign, and set out
 unto the said plaintiffs all and singular the household goods, wares
 &c. debt and debts, sum and sums of money, and all other real
 estate and effects whatsoever and wheresoever of and belonging
 the said H. G. in the hands, custody, or power of the said H. G.
 and of all and every other person and persons whatsoever, to have
 and to hold the said household goods, &c. &c. of the said H. G.
 thereby assigned or mentioned, or intended so to be, and every
 part and parcel thereof, to the said plaintiffs, their executors, ad-
 ministrato-

frators, and assigns, in trust nevertheless to and for the use, it, and advantage as well of themselves as of all such other editors of the said H. G. who had already sought or who hereafter in due time come in and seek for relief by virtue said commission, according to the true intent and meaning of eral statutes in that case made and provided, as by the said are more fully appears: And the said plaintiffs further say, ter the said H. G. became a bankrupt as aforesaid, and after ing forth of the said commission, and notice thereof given London Gazette as aforesaid, and long before the expiration -two days from the issuing forth of the said commission, ice thereof given in the London Gazette as aforesaid, that r, on, &c. A.D. 1755, at, &c. the said defendant did re- nto his custody upon trust for the use and benefit of the G. the bankrupt, a certain promissory note bearing date nty-first day of, &c. and duly made and signed by H. G. of the said H. G. the bankrupt, whereby the said H. G. did promise to pay to one F. D. or order two hundred , three months after date of the said note, for value receiv- also a certain other promissory note bearing date, &c. [as the which said several promissory notes were then in full force, the value together of four hundred pounds of lawful, &c. re then and there part of the personal estate of the said the bankrupt, the said R. D. to whom or to whose order l several sums of money in the said notes respectively con- were therein expressed to be payable, being then and there e in that behalf for the said H. G. the bankrupt, and the contents, and property of the said notes being then and eally and truly belonging to the said H. G. the bankrupt, : said defendant then and there knowingly accepted of the orefaid for the use and benefit of the said bankrupt; yet the fendant not regarding the said statute in such case lately made wided, nor fearing the penalties therein contained, did wilfully l the said promissory notes and the trust aforesaid from the s of the said H. G. the bankrupt, and did not within forty- s next after the issuing forth of the said commission against l H. G. the bankrupt, and notice thereof given in the Lon- zette as aforesaid, discover or disclose the said promissory or either of them, or the trust aforesaid in writing or e, to any one or more of the commissioners named in the mission, nor to the said plaintiffs, nor to any of them, but mitted so to do, to wit, at, &c. contrary to the form of statute; by reason whereof and by force of the said statute defendant hath forfeited for his said offence the sum of hundred pounds, to wit, one hundred pounds and double the e the said promissory notes so concealed as aforesaid, to and use and benefit of the creditors of the said H. G. the bank- hereby and by force of the said statute an action hath accrued, &c. And the said plaintiffs further say, that after the said 2d Count became a bankrupt as aforesaid, and after the issuing forth of

DEBT ON PENAL STATUTES.

the said commission, and notice thereof given in the London Gazette, &c. to wit, on, &c. at, &c. did receive into his custody upon trust for the use and benefit of the said H. G. the bankrupt, two other promissory notes duly made and signed by the said H. G. the son, for the payment of other large sums of money at certain times in the said notes respectively mentioned, which said last two notes were then and there in full force, and of the value of other four hundred pounds of like lawful, &c. and were then and there part of the personal estate of the said H. G. the bankrupt, and the said defendant did then there accept the said last-mentioned trust for the use and benefit of the said bankrupt; yet the said defendant not regarding, &c. nor fearing, &c. did wilfully protest the said two last-mentioned notes, and the trust last-mentioned, from the creditors of the said H. G. and did not within forty-two days, &c. [as in first Count]: [3d Count, as before for the first note, setting it forth as in the first Count, and that the defendant did then and there wrongfully accept of the trust aforesaid for the use and benefit of the said bankrupt; then proceed, for wilfully concealing the said last-mentioned note, and the said last-mentioned trust, &c. 4th Count, as in the last preceding one for the second note instead of the first. 5th Count, did receive into his custody upon trust for the use and benefit of the said bankrupt a certain other promissory note duly made and signed by the said H. G. the son, for the payment of another large sum of money, to wit, the sum of two hundred pounds, at a certain time therein mentioned, which said last-mentioned note was then and there in full force, and of the value of other two hundred pounds of lawful, &c. and was then and there part of the personal, &c.; and that the said defendant not fearing, &c. did wilfully protest the said last-mentioned note and the trust aforesaid.]

Hilary Term, 18. Geo. III.

Declaration at the suit of the landlord against tenant for double rent, for holding premises after notice to quit being given by the landlord.

MIDDLESEX, to wit. Thomas Pott the younger complain of Philip Bendall being, &c. of a plea that he render to him £13 pounds thirteen shillings and fourpence, which he owes to the said Philip, on the first day of April, in the year of Our Lord 1777, held and enjoyed a certain messuage or cottage and shop, with appurtenances, situate, lying, and being at Stanwell, in the county of Middlesex, as tenant thereof to the said Thomas under a lease by virtue of a certain demise thereof to him before that time made by the said Thomas for a term of years then determinable since determined, to wit, at the feast of Saint Michael the Angel according to the old stile, in the said year of Our Lord 1777 the same being the fifth day of October in the same year, at yearly rent of ten pounds payable by the said Philip to the said Thomas for the same, and the said Philip so holding and enjoying the said messuage or cottage and shop, with the appurtenances, the said Thomas by virtue of the said demise, and the revers

of the said messuage or cottage and shop, with the appurtenances, belonging to the said Thomas as the landlord thereof, he the said Thomas during the continuance of the said demise, that is to say, on the fifth day of April, in the said year of Our Lord 1777, at Stanwell aforesaid, in the county aforesaid, did demand of the said Philip to deliver, and then and there gave notice in writing to the said Philip for delivering the possession of the said messuage or cottage and shop, with the appurtenances, to the said Thomas at the end and determination of that term, to wit, at the feast of Saint Michael the Archangel according to the old stile, in the year aforesaid, the same being the fifth of October in the same year; nevertheless the said Philip not regarding the statute in such case lately made and provided, nor fearing the penalty therein contained, after demand and notice in writing given as aforesaid for delivering possession of the said messuage or cottage and shop, with the appurtenances as aforesaid, to the said Thomas at the end of the said term, did not deliver the possession of the said messuage or cottage and shop, with the appurtenances, to the said Thomas, according to the said demand and notice in writing, but altogether neglected and refused so to do, and willfully held over the said messuage or cottage and shop, with the appurtenances, for a long space of time after the said feast day of St. Michael the Archangel according to the old stile, in the said year of Our Lord 1777, so being the fifth day October, in the same year as aforesaid, that is to say, for the space of two months then next following, and did thereby during all that time keep the said Thomas, so being the landlord of the said demised premises as aforesaid, out of the possession; and the said Thomas doth aver, that the said demised premises so held over and from the possession whereof the said Thomas was so kept out by the said Philip as aforesaid, at the time of the holding over of the same, were of great yearly value, to wit, of the yearly value of ten pounds, by reason of which premises and by force of the statute in that case made and provided an action hath accrued to the said Thomas to demand and have of the said Philip the sum of three pounds six shillings and eightpence of lawful money of Great Britain, parcel of the said sum of six pounds thirteen shillings and fourpence above demanded, that is to say, at the rate of double the yearly value of the said demised premises, with the appurtenances, during the time for which the said Philip so held over and kept the said Thomas out of the possession thereof as aforesaid: And whereas also the said Philip, on the first day of April, in the said year of Our Lord 1777, held and enjoyed a certain other messuage or cottage and shop, with the appurtenances, situate, lying, and being at Stanwell aforesaid, in the said county of Middlesex, as tenant thereof to the said Thomas under and by virtue of a certain demise thereof to him before that time made by the said Thomas for a term of years then determinable and since determined, to wit, at the feast of Saint Michael the Archangel, in the year of Our Lord 1777, according to the present stile, the

same being the twenty-ninth day of September in the same year, at the yearly rent of ten pounds payable by the said Philip to the said Thomas for the same, and the said Philip so holding and enjoying the said last-mentioned messuage or cottage and shop, with the appurtenances, of the said Thomas by virtue of the said last-mentioned demise and reversion of the said last-mentioned messuage or cottage and shop, with the appurtenances, belonging to the said Thomas as landlord thereof, he the said Thomas during the continuance of the said last-mentioned demise, that is to say, on the said fifth day of April, in the said year of Our Lord 1777, at Stanwell aforesaid, in the said county, did demand of the said Philip to deliver, and then and there gave notice in writing to the said Philip for delivering the possession of the said last-mentioned messuage or cottage and shop, with the appurtenances, unto the said Thomas at the end and determination of the said last-mentioned term, to wit, at the feast of Saint Michael the Archangel according to the present stile, in the year of Our Lord 1777, the same being the twenty-ninth day of September in the same year; nevertheless the said Philip not regarding the statute in such case made and provided, nor fearing the penalty therein contained, after demand and notice in writing given as last aforesaid for delivering possession of the said last-mentioned messuage or cottage and shop, with the appurtenances as last aforesaid, to the said Thomas at the end of the said last-mentioned term, did not deliver the possession of the said last mentioned messuage or cottage and shop, with the the appurtenances, to the said Thomas, according to the said last-mentioned demand and notice in writing, but altogether refused and neglected so to do, and wilfully held over the said last-mentioned messuage or cottage and shop, with the appurtenances, for a long space of time after the said feast of Saint Michael the Archangel according to the present stile, in the said year of Our Lord 1777, the same so being the twenty-ninth day of September in the same year as aforesaid, that is to say, for the space of two months then next following, and did thereby during all the said last-mentioned time keep the said Thomas, so being landlord of the said last-mentioned premises as aforesaid, out of the possession thereof; and the said Thomas doth aver, that the said last-mentioned demised premises so held over and from the possession, whereof the said Thomas was so kept out by the said Philip as last aforesaid at the time of the holding over the same were of great yearly value, to wit, of the yearly value of ten pounds, by reason of which said last-mentioned premises and by force of the statute in that case made and provided an action hath, &c. to demand and have of the said Philip the further sum of three pounds six shillings and eightpence of lawful money of Great Britain, residue of the said sum of six pounds thirteen shillings and fourpence above demanded, that is to say, at the rate of double the yearly value of the said last-mentioned demised premises, with the appurtenances, during the term for which the said Philip so held over and kept the said Thomas

mas

was out of the possession thereof as last aforesaid; yet, &c.
[Common conclusion in debt.] [Plea, *nil debet*, with notice
of set off.

W. LAMBE.

Easter Term, 16. Geo. III.

SUSSEX, to wit. William Newham complains of Sarah Chesse, widow, being, &c. of a plea that she render to him nine pounds ten shillings of lawful, &c. which she owes to and unjustly detains from him, &c.; for that whereas the said William on, &c. at, &c. in, &c. demised to the said Sarah certain premises, to wit, a house, barn, stable, &c. &c. and divers, to wit, eighteen acres of land, with the appurtenances, situate, lying, and being at, &c. in, &c. to have and to hold the said premises, with the appurtenances, to the said Sarah from thenceforth for and during the space of one whole year from thence next ensuing and fully to be complete and ended, yielding and paying to the said William for the same nine pounds ten shillings, by equal portions half yearly, to wit, on, &c. by virtue of which said demise she the said Sarah afterwards, to wit, on, &c. entered into the said demised premises, with the appurtenances, and was possessed thereof for and during the said term so demised as aforesaid, the reversion thereof, with the appurtenances, belonging to the said William: And the said William further says, that he the said William, after the making of the said demise, and during the continuance thereof, to wit, on, &c. the said Sarah then being in the possession of the said demised premises by virtue of the said demise, and the reversion thereof belonging to the said William as aforesaid; at, &c. made a demand and gave notice in writing to the said Sarah for delivering up the possession of the said demised premises, with the appurtenances, on &c. then next following: And the said William further says, that he the said William afterwards, to wit, on, &c. then next following, demanded of the said Sarah, that she the said Sarah would deliver up the possession of the said demised premises, with the appurtenances, to the said William, according to the said notice; nevertheless the said Sarah did not then and there deliver up the possession of the said demised premises, with the appurtenances, to the said William, but to deliver up the same to the said William the said Sarah altogether neglected and refused, and wilfully held over the said demised premises, with the appurtenances, from the said William for a long space of time, to wit, until the fifth day of, &c. then next following; and the said William doth aver, that the said demised premises at the time of holding over the same were of the yearly value of nine pounds ten shillings, and by reason of such withholding and holding over the said demised premises, with the appurtenances, from the said William and by force of the statute in such case made and provided in action bath, &c. the said nine pounds ten shillings above demanded,

Declaration for double rent, at the suit of landlord against tenant.

manded, to wit, at the rate of double the yearly value of the said demised premises, with the appurtenances, during the time in which the said Sarah so held over the same with the appurtenances; yet, &c. (Common conclusion in debt.)

Drawn by MR. WARREN.

Hilary Term, 24. Geo. III.

Declaration on 6. Geo. 3. c. 18. against two defendants for *underwriting* a policy as partners, (upon which policy the plaintiff brought an action in consequence of a total loss, and the defendants having paid the premiums into court, nonsuited the plaintiff at the trial) for treble damages, being treble the difference between the premium and subscription.

LONDON, to wit. John Chandler complains of William Smith and Nicholas Tipper Smith being, &c. of a plea that they render to the said John the sum of four hundred and twelve pounds four shillings of lawful money of Great Britain, which they owe to and unjustly detain, &c. for that whereas by a certain act made at the parliament of our sovereign lord George the First, late king of Great Britain, &c. holden at Westminster, in the county of Middlesex, in the sixth year of his reign and intitled, "An Act for better securing certain Powers and Privileges intended to be granted by his Majesty, by two Charters, for Assurance of Ships and Merchandizes at Sea, and for lending Money upon Bottomry, and for restraining several extravagant and unwarrantable Practices therein mentioned," it was and is, amongst other things, enacted, that it should and might be lawful to and for his majesty, that is to say, for our said late sovereign lord king George the First, by one charter or indenture under the great seal of Great Britain, to declare and grant that such and so many persons who should be named therein, and of whose abilities and fitness his majesty should thereby declare himself to be well satisfied, and all and every such person or persons as thereafter from time to time should be duly admitted as members into their corporation, should be one distinct and separate body, politic and corporate, for the assurance of ships, goods, and merchandizes at sea, or going to sea, and for lending money upon bottomry, by such name as his majesty should think most proper; and that it should and might be lawful to and for his majesty by another charter or indenture, under the great seal of Great Britain, to declare and grant that such and so many other persons, who should be named therein, and of whose abilities and fitness his majesty should thereby declare himself to be well satisfied, and all and every such other person and persons as thereafter from time to time should be duly admitted as members into their corporation, should be one other distinct and separate body, politic and corporate, for assurance of ships, goods, and merchandizes at sea, or going to sea, and for lending money upon bottomry, by such name as his majesty also should think most proper; and that from and after the granting or making of the said respective charters or indentures for erecting the two corporations before mentioned, and passing the same under the great seal for and during the continuance of the same corporations respectively, or either of them, all other corporations or bodies politic before that time erected or established, whether such corporations or bodies politic or any of them should be

aggregate, and all such societies and partnerships as then
 hereafter should or might be entered into for assuring
 merchandizes, or for lending money upon bottomry,
 force and virtue of that act be restrained from granting,
 and underwriting any policy or policies of assurance, or
 any contracts for assurance of or upon any ship or ships,
 merchandizes at sea, or going to sea, and from lend-
 monies by way of bottomry as aforesaid, and that if
 oration, or body politic, or persons acting in such
 partnership (other than the two corporations in-
 be established by that act, or one of them) should pre-
 grant, sign, or underwrite, after the twenty-fourth
 ne 1720, any such policy or policies, or make any such
 or contracts for assurance of or upon any such ship or ships,
 merchandizes at sea, or going to sea, or take or agree
 any premium or other reward for such policy or policies,
 any policy and policies of assurance of or upon any such ship
 goods, or merchandizes should be *ipso facto* void: And that
 merchant or trader at any time after the said twenty-fourth
 ne 1720 should suffer any particular damage in his, her,
 trade, commerce, or other lawful affairs, by occasion or
 any undertaking or attempt, matter, or thing by that act
 to be unlawful as aforesaid, and would sue to be relieved
 that then and in every such case such merchant or trader
 should might have his and their remedy for the same, by an ac-
 tions to be granted upon that statute, against the persons,
 or partnerships, or any of them who, contrary to that act,
 engaged or interested in any such unlawful undertak-
 attempt, that every such action and actions should be heard
 tried in any of his majesty's courts of record aforesaid,
 no essoin, protection, wager of law, or more than one
 day should be granted or allowed; and that in every such
 case plaintiff should or might recover treble damages, with
 costs of suit, as by the said act of parliament relation being
 made had will, amongst other things, more fully and at large
 And the said John in fact saith, that after the making of
 an act of parliament, to wit, on, &c. in the sixth year afore-
 said late majesty king George the First in pursuance
 thereof was graciously pleased to erect and establish, and did ac-
 complish by his said several charters of incorporation under the
 Great Seal of Great Britain, bearing date the day and year last
 before mentioned, erect and establish two several and distinct corporations
 for the purposes in the said act mentioned, that is to say, one of
 the corporations by the name and title of Royal Exchange
 Assurance, and the other of the said corporations by the name and
 title of London Assurance; and the said two several corpora-
 tions created and established as aforesaid have from thence hi-
 therto continued and still continue, to wit, at London afore-
 said the parish and ward aforesaid: And the said plaintiff
 further saith, that before and at the several and respective
 times

Policy of assurance.

times hereinafter mentioned, he the said plaintiff was and thence hitherto hath been and still is a merchant and trader, to at London aforesaid, in the parish and ward aforesaid; and as merchant and trader he the said plaintiff, before the making of writing or policy of assurance hereafter mentioned, to wit, on was lawfully possessed of a certain ship or vessel called the *Elizabeth* of Eling, of a large value, as of his own proper ship or vessel and which said ship or vessel was then lying and being at Waterford in the kingdom of Ireland, and bound on a voyage from thence to London; and the said plaintiff at the time of making the writing or policy of assurance as hereinafter mentioned, was desirous of insuring the said ship or vessel for the said voyage; and therefore he the said plaintiff afterwards, to wit, on, &c. at, &c. according to the usage and custom of merchants, caused and procured to be made a certain writing or policy of assurance, purporting the same and containing therein that the said plaintiff by the name of John Chandler, as well in his own name as for and in the names of all and every other person or persons to whom the same did, might, or should appertain in part, or in all, did make assurance and cause himself and them, and every of them to be assured, lost, or not lost, at and from Waterford to London, and upon any kind of goods and merchandizes, and also upon the tackle, apparel, ordnance, ammunition, artillery, boat, and furniture of and in the good ship or vessel called the *Bethsabee* of Eling, whereof was master, under God, for that voyage, And or whosoever else should go for master in the said ship, or whatsoever other name or names the said ship or the master thereof was or should be named or called; beginning the adventure of the said goods and merchandizes from the loading thereof aboard the said ship upon the said ship, and so should continue during the voyage abode there upon the said ship, &c. and further until the said ship with all her ordnance, &c. &c. and goods and merchandizes whatsoever should be arrived at London upon the said ship, &c. she had moored at anchor twenty-four hours in good safety upon the goods and merchandizes until the same should be discharged and safely landed; and that it should be lawful for the said ship, &c. in that voyage to proceed and sail to and touch any port or places whatsoever, without prejudice to that insured by the said ship, &c. goods and merchandizes, &c. for so much as concerned the assureds by agreement between the assureds and the assurers in that policy were and should be valued at, touching adventures and perils which they the assurers were content to bear, and did take upon them in that voyage, they were of seas, men of war, &c. and of all other perils, losses, and misfortunes that had or should come to the hurt, detriment, or damage of the said goods, merchandizes, and ship, &c. or any part thereof and that in case of any loss or misfortune, it should be lawful for the assureds, their factors, servants, and assigns to sue, labour, and travel for, in, and about the defence, safeguard, and recovery of the said goods, merchandizes, and ship, &c. or any part thereof

without prejudice to that insurance, to the charges where-
the assurers would contribute each one according to the
quantity of his sum therein insured; and it was agreed
the insurers, that the writing or policy of insurance
of as much force and effect as the surest writing or
insurance theretofore made in Lombard-street, or in the
exchange, or elsewhere in London; and so they the as-
sured were contented, and did thereby promise and bind them-
selves one for his own part, their heirs, executors, and
the assureds, their executors, administrators, and assigns
true performance of the premises, confessing themselves
consideration due unto them for that insurance at and after
of eight pounds *per cent.* to return as customary, if the
ship should arrive with convoy, as by the said writing or po-
licy more fully appears; under which said writing or
policy a certain memorandum was then and there
whereby corn, fish, salt, fruit, flour, and seed were war-
ranted free from average, unless general, or that the ship should
be laden; sugar, tobacco, hemp, flax, hides, and skins, were
warranted free from average under five pounds *per cent.* and all
other goods, and the ship and freight were warranted free of
under three pounds *per cent.* unless general, or the ship
be stranded; and also a certain other memorandum was
there written, whereby the said insurance was declared to
be a ship, of which said writing or policy of insurance and me-
morial so made as aforesaid, the said defendants, who before
several respective times hereinafter mentioned had en-
tered and were persons acting in partnership for assuring ships
and cargoes at sea, contrary to the true intent and meaning of
an act of parliament, had notice: And thereupon afterwards,
on, &c. at, &c. in, &c. in consideration that the said
the special instance and request of the said defendant, had
there paid to the said defendants the sum of twelve pounds,
sum or reward for the assurance of one hundred and fifty
upon the said ship, and the body, tackle, &c. &c. and
contents of and in the said ship in the said writing or policy
once mentioned, and had then and there undertaken and
promised the said defendants to perform and fulfil every
the said writing or policy of assurance contained on the
behalf of the assured to be performed and fulfilled, they
defendants undertook, and to the said plaintiff then and
verbally promised that they the said defendants would become
to the said plaintiff of the said sum of one hundred and
pounds upon the said ship, and the body, &c. &c. and other
of and in the said ship, in the said writing or policy of
once mentioned, and would perform and fulfil every thing in
writing or policy of assurance contained on their parts and
to be performed and fulfilled as such assurers as to the said
sum of one hundred and fifty pounds; and the said defendants then and
consented to sign and underwrite the said writing or policy of
assurance

assurance as assurers of the said one hundred and fifty pounds as aforesaid, contrary to the tenor and effect, true intent and meaning of the said act of parliament: And the said plaintiff in fact further saith, that before the making of the said writing or policy of assurance, to wit, on, &c. the said ship or vessel therein mentioned was in safety, to wit, at, &c. and that the said John until and at the time of the capture thereof hereinafter mentioned was interested in the said ship, and in the body, &c. &c. and other furniture of and in the said ship, in the said writing or policy of assurance mentioned, to a large value, that is to say, to the value of all the monies by him ever insured; and that the said assurance so made as aforesaid was so made for the said plaintiff on his account, and for his own use and benefit, to wit, at, &c.: And the said plaintiff in fact further saith, that afterwards, to wit, on, &c. the said ship with divers goods and merchandizes laden on board her as aforesaid departed and set sail from W. aforesaid, on her said intended voyage towards London aforesaid, and that afterwards and before the arrival of the said ship at L. aforesaid, to wit, on, &c. the said ship was on the high seas with force and arms, and in an hostile manner attacked, conquered, carried, and taken away as a prize by certain enemies of our lord the now king, and of his crown of Great Britain, to wit, by certain subjects of the French king, being then at enmity and in open war with our said lord the king, and thereby the said ship with all the tackle, &c. &c. and other furniture thereof, became and was totally lost to the said plaintiff, to wit, at, &c. of all which said several premises the said defendants afterwards, to wit, on, &c. at, &c. had notice; and were then and there required by the said plaintiff to pay to him the said one hundred and fifty pounds so assured as aforesaid, and which said one hundred and fifty pounds the said defendants ought to have paid according to the form and effect of their said promise and undertaking so made as aforesaid; but the said sum of one hundred and fifty pounds being wholly unpaid to the said plaintiff, and the said promise and undertaking of the said defendants being wholly unperformed, he the said plaintiff for the recovery of his damages by him sustained on occasion of not performing of their said promise and undertaking, and also of certain other promises and undertakings by them made to the said plaintiff afterwards, to wit, in Easter term, in the twenty-third year of the reign of our lord the now king, in the court of our said lord the king, before the king himself here, the court then and still being holden at Westminster, in the county of Middlesex, impleaded the said defendants in a certain plea of trespass on the case upon promises, to the damage of him said plaintiff of two hundred pounds; and such proceedings were thereupon had in the said plea in the said court of our said lord the king, before the king himself here, that afterwards, to wit, on Monday the first day of December, in the twenty-third year aforesaid, a certain issue joined in the said plea between the said plaintiff and the said defendants came on to be and was tried at the Guildhall of the city of London, before Francis Buller, esquire, then and still

ie of his majesty's justices assigned to hold pleas before
 self, according to the form of the statute in such case
 ovided ; whereupon the said defendants taking advan-
 iling themselves on the said trial of their being persons
 tnership at the time of signing and underwriting the
 olicy of assurance as aforesaid, the said writing or po-
 nce was then and there declared and found to be void
 rancis Buller, esquire, and the jury then and there
 try the said issue ; and thereby the said plaintiff instead
 g in the event of the said trial the said sum of one hun-
 7 pounds so by him assured as aforesaid, could and did
 in that event the said sum of twelve guineas, being
 of the premium so by him paid to the said defendants
 by means of which several premises he the said plaintiff
 a particular damage to a large amount, to wit, to the
 he sum of one hundred and thirty-seven pounds eight
 ng the deficiency or difference between the said sum of
 and fifty pounds so by him assured as aforesaid, and the
 elve guineas so recovered as aforesaid, and thereby and
 he said act of parliament an action hath accrued to the
 to demand and have of and from the said defendants the
 four hundred and twelve pounds four shillings above
 eing treble the amount of the said damage so suffered
 laintiff as aforesaid ; yet the said defendants, although
 ed, have not nor hath either of them as yet paid the
 four hundred and twelve pounds four shillings above
 r any part thereof to the said plaintiff ; but to pay the
 part thereof to the said plaintiff, they the said de-
 e and each of them hath hitherto wholly refused, and
 them doth wholly refuse, to the damage of the said
 twenty pounds ; and therefore he brings suit, &c.

N, to wit. John Kirby, deputy keeper of Wood-
 er, London, was summoned to answer William Mil-
 lea that he render to him one hundred pounds of law-
 ich he owes to and unjustly detains from him, &c. ;
 on the said plaintiff, by his attorney, saith, that after
 of July, which was A. D. 1679, he the said plaintiff
 time, and out of term, to wit, on the twenty-seventh
 , in the fourth year of the reign of our present most
 reign lord George the Third, at London, to wit, in
 aforesaid, was taken and detained in the prison of
 t-compter, London, by the said defendant, without
 for treason or felony expressed in the same, he the said
 man and yet being duly appointed deputy keeper of
 t-compter aforesaid, and as such having the prisoners
 g under his custody, care, and charge : And whereas
 to wit, on the twenty-eighth day of the same month
 the said fourth year of the reign of our present most
 gracious

Declaration on
 32. Cha. 2. c. 2.
 against a goaler
 for refusing the
 plaintiff a copy
 of his commit-
 ment.

gracious sovereign lord the now king at London aforesaid, to wit in the parish of St. Mary le-bow, in the ward of Cheap, he the said plaintiff demanded of the said defendant, deputy keeper aforesaid, by a demand in writing, he the said plaintiff's own proper hand and name being thereto set and subscribed, a true copy of the warrant of commitment, and detainer of the said plaintiff touching his being a confined prisoner, and kept and detained under the custody and power of the said defendant as deputy keeper of Woodstreet compter aforesaid; nevertheless the said defendant not regarding the duty of his office as deputy keeper aforesaid, nor the laws or statutes of this kingdom, nor the pains and penalties therein contained, although often requested, within the space of six hours next after the said demand so made in writing by the said plaintiff as aforesaid, did not deliver a copy of the warrant of commitment and detainer of the said plaintiff in the custody of him the said defendant, as by the within notice and demand in writing as aforesaid he the said defendant was requested to do, in conformity to the declaration of an act of parliament for that purpose made; but he the said defendant wholly and absolutely neglected refused, and omitted to deliver the same to him the said plaintiff contrary to the form of the statute in such case made and provided, whereby and by force of the said statute in such case made and provided, the said defendant forfeited the sum of one hundred pounds of lawful, &c. and by virtue of the same statute an action hath accrued to the said plaintiff, being the party aggrieved, to demand and have of the said defendant as deputy keeper aforesaid the sum of one hundred pounds of lawful, &c. Common conclusion.

Declaration on 25. Eliz. c. 5. against an attorney for fraudulently executing a collusive judgment, for the value of the goods levied under it, at suit of the king and the party grieved.

MIDDLESEX, to wit. John Britton and Benjamin Teale, one, &c. present, &c. of a plea that he render to our said lord the king, and the said John Britton who sues as well, &c. in this behalf, seventy-eight pounds four shillings and elevenpence which he owes to and unjustly detains from our said lord the king and the said John Britton who sues as aforesaid; for that whereas the said John Britton heretofore, that is to say, in the term of St Hilary, in the twenty-fourth year of the reign of our said lord the king, before J. W. knight, and his brethren, justices of his majesty's court of common bench here, to wit, at Westminster, in the county of Middlesex, by the judgment of that court recovered against James Barrow, by the name, &c. as well a certain debt of three hundred pounds, as sixty shillings for his damages which he had sustained on the occasion of the detaining that debt, whereas the said J. B. is convicted, as by the record and proceeding thereof, &c.: And whereas the said J. B. at the time of the rendering that judgment, and afterwards was possessed of divers goods and chattles, to wit, &c. [here follows a long schedule of goods of the value of seventy-eight pounds four shillings and elevenpence] and his own proper goods and chattels, to wit, at Westminster, &c. which

DEBT on STATUTES.—HIGHWAYS.

70. 278

which were subject and liable to the execution of the said judgment of the said J. B. and upon which goods and chattels he the said J. B. could have had execution on that judgment, and afterwards in this same term of Easter in the twenty-fourth year, &c. being, &c. to wit, at Westminster, &c. one Richard Price, by the judgment of the same court, recovered against the said James Barrow as well a certain debt of two hundred pounds, as sixty three shillings for his damages which he had sustained as well on the occasion of denying that debt, as for his costs and charges by him about his suit on that behalf expended, whereof the said James Barrow is convicted, as by the record, &c. which said judgment last-mentioned so as aforesaid had, was then and there devised and contrived of malice, fraud, covin, and collusion between the said Richard Pearce and the said James Barrow; and the said Benjamin Teasdale to the end, purpose, and intent to delay, hinder, and defraud the said John Britton of his said just and lawful debt or damages, and to the let and hindrance of the due course and execution of law and justice; and the said Benjamin Teasdale being privy and knowing of such feigned covenantous and fraudulent judgment, on the twenty-first day of April, in the year of Our Lord 1751, at Westminster aforesaid, willingly and wittingly did put in use the said judgment as true and simple, and had *bond fide* upon good consideration, contrary to the form, &c. by reason whereof and force of the said statute an action accrued to our said lord the king, and the said J. B. the party grieved in this case, who sues as well for our said lord the king as for himself in this behalf, to demand and have of the said Benjamin Teasdale the said seventy-eight pounds four shillings and elevenpence, to wit, the value of the said goods and chattels so as aforesaid taken by the said judgment so put in use; nevertheless the said Benjamin Teasdale, though often required the said seventy eight pounds four shillings and elevenpence or any part to our said lord the king, or to the said John Britton who sues, &c. hath not rendered, but the same to render to our said lord the king, or to the said John Britton who sues as aforesaid hath hitherto wholly denied, and doth still deny so to do, to the damage of our said lord the king, and the said John Britton who sues as aforesaid of twenty pounds; and therefore, &c.

KENT, to wit. William Virges complains of Edward Pit-Declaration on
cher, esquire, being in the custody of the marshal of the mar- 13. Geo. 3. for
shals of our lord the king, before the king himself, of a plea that preserving the
he render to the said William the sum of twenty pounds of lawful highways.
money of Great Britain, which he owes to and unjustly detains
from him; for that the said Edward within one calendar month
next before the commencement of this suit, to wit, on the twen-
ty-first day of November, in the year of Our Lord 1785, at the
parish of Chatham, in the county of Kent, was indebted to the
said William in the sum of five pounds of lawful money of Great
Britain, being forfeited by an act passed in the tenth year of the
10. VII. N reign

reign of his present majesty, intituled, “ An Act to explain, amend, and reduce into one Act of Parliament the *Statutes* now in being for *the Amendment and Preservation of the Public Highways* within that Part of Great Britain called England and for other Purposes,” whereby an action hath accrued to the said William to demand and have of and from the said Edward the said sum of five pounds so forfeited as aforesaid, parcel of the said sum of twenty pounds above demanded: And the said William in fact further saith, that the said Edward within one calendar month next before the commencement of this suit, to wit, on the same day and year aforesaid, at the parish aforesaid, in the county aforesaid, was indebted to the said William in the further sum of five pounds of like lawful money of Great Britain, being forfeited by an act passed in the thirteenth year of the reign of his present majesty, intituled, “ An Act to explain, amend, and reduce in one Act of Parliament the general Laws now in being for *regulating the Turnpike Roads* in that Part of Great Britain called, &c. and for other Purposes,” whereby an action hath accrued to the said William to demand and have of and from the said Edward the said last-mentioned sum of five pounds so forfeited as last aforesaid, other parcel of the said sum of twenty pounds above demanded: And the said William in fact further saith, that the said Edward within one calendar month next before the commencement of this suit, to wit, on, &c. at, &c. was indebted to the said William in the further sum of five pounds of like lawful, &c. being forfeited by an act passed in the thirteenth year of the reign of his present majesty, intituled, “ An Act to explain &c. &c. and for other Purposes,” whereby an action hath accrued &c. &c. &c.: And the said William in fact further saith, that the said Edward within one month next before the commencement of this suit, to wit, on, &c. at, &c. was indebted to the said William in the further sum of five pounds of like lawful, forfeited by, &c. intituled, “ An Act to explain and reduce into one Act of Parliament the *General Laws* now in being for *regulating the Turnpike Roads* in that Part of Great Britain called England, and for other Purposes,” whereby an action hath accrued, &c.; yet &c. [Common conclusion in debt.]

Declaration on 13. Geo. 3. for retailing spirituous liquors without a licence.

MIDDLESEX, to wit. George Dally, who sues as well for our sovereign lord the king as for himself in this behalf, complains of William Blezard being in the custody of, &c. of a plea that he render to our said lord the king and to the said George who sues as aforesaid the sum of one hundred pounds of lawful money of Great Britain, which he owes to and unjustly detains from them; for that whereas by a certain act made at the parliament of our sovereign lord George the Third, now king of Great Britain, &c. holden at Westminster, in the county of Middlesex aforesaid, in the thirteenth year of his reign, and intituled, “ An Act for the more effectually restraining the retailing of distilled Spirituous Liquors, and for preventing the forging or counterfeiting any Stamp or Seal used for making Silks, Calicoes, Linens, and
“ Stuffs,

"Stuffs, to be printed, painted, stained, or dyed in Great Britain;" it was amongst other things enacted, that if at any time from and after the fifth day of July 1773 any person should presume by him, her, or themselves, or by any other person or persons employed by him, her, or them, or for his, her, or their benefit to retail any distilled liquors or strong waters, without first taking out a licence for that purpose, in manner as by the several statutes in that case made and provided and then in force was prescribed or directed, he, she, or they so offending should respectively forfeit and lose the sum of fifty pounds for each offence, as by the said act of parliament (relation being thereunto had) will amongst other things more fully and at large appear: And the said George, who sues as aforesaid, in fact saith, that after the making of the said act of parliament, and after the said fifth day of July 1773 therein mentioned, and before the exhibiting the bill of the said plaintiff who sues as aforesaid against the said William, to wit, on, &c. at, &c. he the said William did unlawfully presume to retail and did then and there unlawfully retail certain distilled spirituous liquor called without first taking out a licence, in manner as by the several statutes made and provided and then in force was and is prescribed and directed, contrary to the form and effect of the act of parliament aforesaid, whereby and by force of the said act the said defendant forfeited for his said offence the sum of fifty pounds, and thereby and by force of the said act of parliament an action hath accrued, &c. &c. &c.: And the said G. who sues as aforesaid, in fact further saith, that after the making of the said act of parliament, and after the said fifth day of, &c. therein mentioned, and before the exhibiting the bill of the said plaintiff who sues as aforesaid against the said defendant, to wit, on, &c. he the said defendant did unlawfully presume to retail, and did then and there unlawfully retail, that is to say, *by a certain person then and there employed by him the said defendant, and for his benefit*, certain other distilled spirituous liquors called without first taking out a licence for that purpose, in manner as by the several statutes made and provided and then in force was and is prescribed and directed, contrary to the form and effect of the act of parliament aforesaid, whereby and by force of the said act of parliament the said defendant forfeited for his said last-mentioned offence the further sum of fifty pounds, and thereby and by force of the said act of parliament an action hath accrued, &c. &c. ; yet the said defendant, although often requested, hath not rendered the said sum of one hundred pounds above demanded or any part thereof to our said lord the king and the said plaintiff who sues as aforesaid, or to either of them, but to render the same or any part thereof to our said lord the king and the said plaintiff who sues as aforesaid, or to either of them, the said defendant hath hitherto wholly refused and still doth refuse. Damages twenty pounds. Suit, &c.

Declaration on 19. Geo. 3. c. 69. s. 10. against a dealer in coffee and chocolate, for not having the words painted over the door of his shop.

It must be the parish where the defendant's shop is situated.

2d Count, seller of coffee.

MIDDLESEX, to wit. James White, who sues as well for our sovereign lord the king as for himself in this behalf, complains of Joseph Ridgeway being, &c. of a plea that he render to our said lord the king and the said John who sues as aforesaid the sum of six hundred pounds of lawful money of Great Britain, which he owes to our said lord the king and the said John who sues as aforesaid, and unjustly detains from them, &c.; for that whereas the said Joseph, after the first day of August 1779, to wit, on, &c. was a dealer in coffee, to wit, at the parish of, &c.; nevertheless the said Joseph so being a dealer in coffee as aforesaid, not regarding the statute in that case made and provided, nor fearing the penalties therein contained, did after the said first day of August 1779, and whilst he was a dealer in coffee as aforesaid, to wit, on, &c. at, &c. in, &c. make use of a certain shop there situate for the keeping coffee, without having the words "Dealer in Coffee" painted or written in large legible characters over the door of the said shop, contrary to the form of the statute in such case made and provided, whereby and by force of the said statute the said Joseph so being a dealer in coffee as aforesaid forfeited for his said offence the sum of two hundred pounds, and thereby and by force of the said statute an action hath accrued to the said James, who sues as aforesaid, to demand and have of and from the said Joseph for our said lord the king and for himself the said James, who sues as aforesaid, the said sum of two hundred pounds so forfeited as aforesaid, parcel of the said sum of six hundred pounds above demanded: And the said James who sues as aforesaid further says, that the said Joseph after the first day of, &c. to wit, on, &c. was a seller of coffee, to wit, at, &c. nevertheless the said Joseph so being a seller of coffee as aforesaid, not regarding the statute in that case made and provided, nor fearing the penalties therein contained, did after the said first day of, &c. and whilst he was a seller of coffee as aforesaid, to wit, on, &c. at, &c. make use of a certain other shop there situate for the keeping coffee, without having the words "Dealer in Coffee" painted or written in large legible characters over the door of the said shop, contrary to the form of the statute in such case made and provided, whereby and by force of the said statute the said Joseph so being a seller of coffee as aforesaid forfeited, &c. &c. (as before): And the said James, who sues as aforesaid, further saith, that the said Joseph after the said first day of, &c. to wit, on, &c. was a seller of chocolate, to wit, on, &c. at, &c.; nevertheless, &c. &c. (as before, only say chocolate instead of coffee); yet, &c. [Common conclusion in *qui tam* actions.]

Declaration on the lottery act of the Geo. 3. for twelve different the drawing of 1781.

MIDDLESEX, to wit. Edward Bates, who sues, &c. complains of Thomas Strong and John Doery being, &c. of a plea of penalties of five hundred pounds each, against a lottery-office keeper, for insuring up tickets and chances, and publishing proposals and schemes for insurance in the lottery.

th

but they render to our said lord the king, and the said Edward who
sues as aforesaid, the sum of six thousand pounds of lawful money
of Great Britain, which they owe to our said lord the king and the
said Edward, who sues as aforesaid, and unjustly detains from them;
for that after the making of a certain act of parliament passed in
the twenty-first year of the reign of his present majesty, intituled,
'An Act for raising a certain Sum by way of Annuities and a
'Lottery, and for consolidating certain Annuities which were
'made one joint Stock by an Act made in the second Year of
'the Reign of his present Majesty, with certain Annuities con-
'solidated by several Acts made in the twenty-fifth and the twen-
'ty-sixth Years of the Reign of King George the Second, and in
'the fifth Year of the Reign of his present Majesty," and after the
drawing of the said lottery established by the said first-mentioned
act of parliament was begun to be drawn, and before the same
was completed, to wit, on the twenty-first day of, &c. 1781, at,
&c. the said Thomas and John not regarding the said statute in
that case made and provided, nor fearing the penalties therein con-
tained, did receive of and from one G. J. a sum of money, to
wit, the sum of elevenpence of lawful money of Great Britain,
in consideration of the repaying him the said G. J. another sum
of money, to wit, the sum of one pound one shilling of like law-
ful money of Great Britain, in case a certain ticket then in the
said lottery, to wit, a certain ticket numbered 33,245 in the said
lottery should be drawn on the tenth day of the drawing of the
said lottery, contrary to the form of the statute in that case made
and provided, whereby an action hath accrued to the said Edward,
who sues as aforesaid, to demand and have of and from the said
Thomas and John, for our said sovereign lord the king and for
himself the said Edward, who sues as aforesaid, the sum of five
hundred pounds, parcel of the said sum of six thousand pounds
now demanded: And the said Edward, who sues as aforesaid,
further says, that the said Thomas and John not regarding the said
statute in that case made and provided, nor fearing the penalties
therein contained, after the making of the said last-mentioned act
of parliament so passed in the twenty-first year of the reign of our
said lord the king, and during the drawing of the said lottery esta-
blished by that act of parliament, to wit, on, &c. at, &c. in, &c.
did receive of and from the said G. J. another sum of money, to
wit, the sum of elevenpence of like lawful money of Great Bri-
tain, in consideration of the repayment to the said G. J. of ano-
ther sum of money, to wit, the sum of one pound one shilling of
like lawful money, &c. in case of a chance or event relating to the drawing of a
certain ticket in the late lottery, to wit, a certain ticket in the late
lottery numbered 33,245, that is to say, in case the said ticket
should be drawn on the tenth day of the drawing of the said lot-
tery, contrary to the form of the statute in that case made and pro-
vided, whereby an action hath, &c. &c. &c.: And the said Ed-
ward Bates, who sues as aforesaid, further says, that the said Tho-
mas Strong and John Doery not regarding the said statute in that
case

2d Count, with-
out stating the
title of the acts
of parliament.

3d Count, for
inforcing six-
teenth part of
ticket.

4th Count.

case made and provided, nor fearing the penalties therein contained after the making of the said last-mentioned act of parliament and during the drawing of the said lottery established by that act of parliament, to wit, on the twenty-fourth day of November, in the year of Our Lord 1781, at Westminster aforesaid, in the county aforesaid, did receive of and from one George James another sum of money, to wit, the sum of elevenpence of like lawful money of Great Britain, in consideration of returning to him the said George James the sixteenth part of an undrawn ticket in the said lottery being then and there of the value of one pound one shilling of like lawful money of Great Britain, in case a certain ticket in the said lottery, to wit, a certain ticket numbered 33,245 in the said lottery should be drawn on the tenth day of the drawing of the said lottery, contrary, &c. whereby, &c. (as in the second Count): And the said Edward Bates, who sues as aforesaid, further says, that the said Thomas Strong and John Doery not regarding the said statute in that case made and provided, nor fearing the penalties therein contained, after the making of the said last-mentioned act of parliament, and during the drawing of the said lottery established by that act of parliament, to wit, on the said twenty-fourth day of November, in the said year of Our Lord 1781, at Westminster aforesaid, in the county aforesaid, did receive of and from the said George James another sum of money to wit, the sum of elevenpence of like lawful money of Great Britain, in consideration of returning to him the said George James the sixteenth part of an undrawn ticket in the said lottery being then and there of the value of one pound one shilling of like lawful money of Great Britain, in case of a chance or event relating to the drawing of a certain ticket in the said lottery, to wit, a certain ticket in the said lottery numbered 33,245; that is to say, in case the said ticket should be drawn on the tenth day of the drawing of the said lottery, contrary, &c. whereby, &c. (as before.)

5th Count.

5th Count, did receive of and from the said George James another sum of money, to wit, the sum of elevenpence of like lawful money of Great Britain, in consideration of returning to him the said George James the sixteenth part of an undrawn ticket in the said lottery, the said sixteenth part of an undrawn ticket in the said lottery being then and there of the value of one pound one shilling of lawful money of Great Britain, in case a certain ticket then in the said lottery, to wit, a certain ticket numbered 33,245 in the said lottery, contrary, &c. whereby, &c. (as before).

6th Count.

6th Count, did receive of and from the said George James another sum of money, to wit, another sum of elevenpence of like lawful money of Great Britain, in consideration of returning to him the said George James the sixteenth part of an undrawn ticket in the said lottery, the said sixteenth part of an undrawn ticket in the said lottery being then and there of the value of one pound one shilling of like lawful money of Great Britain, in case of a chance or event relating to the drawing of a certain ticket in the said lottery

to wit, a certain ticket in the said lottery numbered 33,245, that is to say, in case the said ticket should be drawn on the tenth day of the drawing of the said lottery, contrary, &c. ; whereby, &c. 7th Count, did publish proposals for taking and receiving money in consideration of the repayment of certain sums of money in case of certain chances or events relating to the drawing of tickets in the lottery as to the time of such tickets being drawn, contrary, &c. ; whereby, &c. 8th Count, did publish proposals for taking and receiving money in consideration of returning undrawn tickets in the said lottery, or certain parts thereof, or the repayment of the value of undrawn tickets or certain parts, in case of certain chances or events relating to the drawing of certain tickets in the said lottery as to the time of such tickets being drawn, the value of an undrawn ticket in the said lottery being then and there, to wit, at the time of the publishing of such proposals as last aforesaid, of the value of twenty-one pounds of like lawful money of Great Britain, contrary, &c. ; whereby, &c. 9th Count, did receive money in consideration of the payment of a sum of money in case of a chance or event relating to the drawing of a certain ticket in the said lottery numbered 33,245 as to the time of such ticket being drawn, that is to say, the said Thomas Strong and John Doery did then and there receive of and from the said James another sum of money, to wit, the sum of elevenpence of like lawful money of Great Britain, in consideration of repaying him the said George James another sum of money, to wit, the sum of one pound one shilling of like lawful money of Great Britain, in case a certain ticket then in the said lottery, to wit, a certain ticket numbered 33,245 in the said lottery should be drawn on the tenth day of the drawing of the said lottery, contrary, &c. ; whereby, &c. 10th Count, did receive money in consideration of the repayment of a sum of money in case of a chance or event relating to the drawing of a certain ticket in the said lottery numbered 33,245 as to the time of such ticket being drawn, that is to say, the said Thomas Strong and John Doery did then and there receive of and from the said George James another sum of money, to wit, the sum of elevenpence of like lawful money of Great Britain, in consideration of the repayment to the said George James of another sum of money, to wit, the sum of one pound one shilling of like lawful money of Great Britain, in case of a chance or event relating to the drawing of a certain ticket in the said lottery numbered 33,245, that is to say, in case the said ticket should be drawn on the tenth day of the drawing of the said lottery, contrary, &c. whereby, &c. 11th Count, did publish a scheme or proposal for receiving the sum of elevenpence of like lawful money of Great Britain, in consideration of repaying the sum of one pound one shilling of like lawful money of Great Britain, in case a certain ticket in the said lottery, to wit, a certain ticket numbered 33,245 in the said lottery, the said ticket then and at the actual time of drawing of the said ticket, not being in the possession of the said Thomas Strong and John Doery should during the drawing of the said lottery,

12th Count.

tery, to wit, on the said tenth day of the drawing of the said lottery prove fortunate or unfortunate, contrary, &c. whereby, &c. 12th Count, did publish a certain other scheme or proposal for receiving the sum of elevenpence of like lawful money of Great Britain, in consideration of the returning the sixteenth part of an undrawn ticket in the said lottery being then and there of the value of one pound one shilling of lawful money of Great Britain, in case a certain ticket then in the said lottery, to wit, a certain other ticket numbered 33,245, in the said lottery, the said last-mentioned ticket then and at the actual time of drawing of the said ticket not being in the actual possession of the said Thomas Strong and John Doery, should; during the drawing of the said lottery, to wit, on the said tenth day of the said drawing of the said lottery prove fortunate or unfortunate, contrary, &c, whereby, &c. residue of the said sum of six thousand pounds above demanded; yet the said Thomas Strong and John Doery, although often requested, have not nor hath either of them yet paid the said sum of six thousand pounds above demanded or any part thereof to our said lord the king, or to the said Edward Bates who sues as aforesaid, or to either of them, but to pay the same or any part thereof to our said lord the king, or to the said Edward Bates who sues as aforesaid, or to either of them, they the said Thomas Strong and John Doery have hitherto wholly refused, and still do refuse, to the damage of the said Edward Bates, who sues as aforesaid, of twenty pounds, and therefore as well for our said lord the king as for himself he brings his suit, &c.; pledges, &c.

Declaration on
22. Geo. 3. c. 47.
s. 13. the lottery
act for three pe-
nalties of 50l
each on insuring
numbers.

MIDDLESEX, to wit. Richard Shortney, who sues in this behalf as well for our lord the king as for himself, complains of John Chettle being in the custody of the marshal of the marshalsea of our said lord the king, before the king himself, of a plea that he render to our said lord the king and the said Richard, who sues as aforesaid, one hundred and fifty pounds of lawful money of Great Britain, which he owes to our sovereign lord the king, and the said Richard, by his attorney, complains that after making a certain act of parliament, made at a session of parliament of our lord the now king, holden by prorogation at Westminster, in the said county of Middlesex, on the twenty-seventh day of November, in the twenty-second year of his reign, intituled, "An Act for Licensing Lottery-Office Keepers, and regulating the Sale of Lottery Tickets;" and after the drawing of a certain lottery established by a certain other act of parliament, made at a session of parliament of our said sovereign lord the now king, holden at Westminster, in the said county of Middlesex, on the eighteenth day of May, in the twenty-fourth year of his reign, intituled, "An Act for raising a certain Sum of Money by Way of Annuities, and for establishing a Lottery," was began to be drawn, and before the same was completed, to wit, on the thirteenth day of December, in the year of Our Lord 1784, at Westminster aforesaid,

id, in the county aforesaid, did agree with one John Brown to receive a sum of money, to wit, the sum of two pounds seven-shillings and one penny from him the said John Brown, to a certain other sum of money, to wit, the sum of twenty-pounds if a certain ticket, to wit, No. 18,596 in the said lottery should be drawn on the fourteenth day of December, in the year last aforesaid, and did on the said thirteenth day of December, in the year last aforesaid, at Westminster aforesaid, in the county aforesaid, in consideration of such agreement to repay the said sum of twenty-one pounds if the said ticket in the said lottery should be drawn on the said fourteenth day of December, in the year last aforesaid, receive the said sum of two pounds seven-shillings and one penny of and from the said John Brown, in conformity to the form of the statute in that case made and provided; and by force of the said statute an action hath accrued to the said Richard, who sues as aforesaid, to demand and have of and from the said John Chettle for our said sovereign lord the king, himself the said Richard, who sues as aforesaid, the sum of twenty-one pounds, parcel of the said sum of one hundred and twenty pounds above demanded: And the said Richard who sues as aforesaid further says, that the said John Chettle notwithstanding the said act of parliament made in the twenty-second year aforesaid, nor fearing the penalties therein contained, after the making the said last-mentioned act of parliament, and after the drawing of the said lottery by the said act of parliament in the twenty-fourth year of the reign of our said sovereign lord the now king established, was begun to be drawn and before it was completed, to wit, on the fifteenth day of December, in the year of Our Lord 1784, at Westminster aforesaid, in the county aforesaid, *did insure against the drawing of a certain other ticket in the said lottery, to wit, No. 4448 in the said lottery, contrary to the form of the statute in that case made and provided; and by force of the said statute an action hath accrued to the said Richard, who sues as aforesaid, to demand and have of and from the said John Chettle for our said sovereign lord the king, himself the said Richard, who sues as aforesaid, the further sum of twenty-one pounds, parcel of the said sum of one hundred and fifty pounds above demanded: And the said Richard, who sues as aforesaid, says, that the said John Chettle notwithstanding the said act of parliament made in the twenty-second year aforesaid, nor fearing the penalties therein contained, after the making the said last-mentioned act of parliament, and after the drawing of the said lottery by the said act of parliament in the said twenty-fourth year of the reign of our said sovereign lord the now king established, was begun to be drawn, and before it was completed, to wit, on the fifteenth day of December, in the said year of Our Lord 1784, at Westminster aforesaid, in the county aforesaid, did agree with the said John Brown to receive a sum of money, to wit, the sum of twenty-one pounds sixteen shillings and ninepence and one third of a penny from him the said John Brown, to repay a certain other sum of money, to wit, the sum of twenty-one pounds if a certain*

other

other ticket, to wit, No. 6087 in the said lottery should be drawn on the sixteenth day of December last aforesaid, and did on the said fifteenth day of December in the year last aforesaid, at Westminster, in the county aforesaid, in consideration of such agreement to repay the said sum of twenty one pounds, if the said last mentioned ticket in the said lottery should be drawn on the said sixteenth day of December, in the year last aforesaid, receive the said sum of three pounds sixteen shillings and ninepence and the third of a penny of and from the said John Brown, contrary, & whereby, &c. the further sum of fifty pounds, remainder of the said sum of one hundred and fifty pounds above demanded; yet the said John Chettle, although often requested, hath not yet paid the said sum of one hundred and fifty pounds or any part thereof to our said lord the king, or to the said Richard who sues as aforesaid but to pay the same to our lord the king, or to the said Richard who sues as aforesaid, he the said John Chettle hath hitherto altogether refused, and still doth refuse, to the damage of the said Richard, who sues as aforesaid, of one hundred and fifty pounds and thereof the said Richard as well for our said lord the king for himself brings suit, &c.; pledges, &c.

Declaration on the mutiny act, 23. Geo. 3. c. 24. s. 48. against the agent of a regiment for not stating an account of the money due to the regiment with the paymaster, nor delivering to each captain an account of what belonged to him and his company, &c.

MIDDLESEX, to wit, Edward Armstrong, late of, &c. w summoned to answer unto Hugh M'Donald, of a plea that he recited to the said Hugh the sum of . . . pounds of good and lawful money of Great Britain, which he owes to and unjustly detains from him, &c. and thereupon the said Hugh, by A. B. his attorney complains, that whereas by a certain act made at the parliament of our sovereign lord George the Third, now king of Great Britain, &c. holden at Westminster, in the county of Middlesex, the twenty-third year of his reign, intitled, "An Act for punishing Munity and Desertion, and for the better Payment of the Army and their Quarters;" it was, amongst other things enacted, that, &c. &c. [the forty-eighth section of the act was here recited] as by the said act of parliament, relation being thereto had, will more fully and at large appear: And the said Hugh in fact saith, that the said Edmund on, &c. and from then until and at the time of suing out the original writ of the said Hugh against the said Edmund, was and still is the agent lawful appointed and authorised to receive the pay of a certain regiment in his majesty's service, that is to say, a certain regiment of infantry in the said service, commonly called the African corps infantry; and as such agent it was from time to time for and during all that time his business and duty under and by virtue of the said act of parliament, when and so often as four months pay did become due to the said regiment, to state and make with the paymaster general, or other respective paymasters of his majesty's forces for the time being, an exact account of the two preceding months (that is to say, for the two first of every four months) of all moneys due according to the muster rolls of the said regiment, and

deliver to each captain of the said regiment an account of so much thereof as respectively appertained to him and his company, and the inferior officers or soldiers thereof, or to see that such accounts were so stated, made, and delivered by the colonel of the said regiment for the time being, to wit, at Westminster, in the county of Middlesex aforesaid: And the said Hugh in fact further saith, that afterwards and whilst the said Edmund was such agent as aforesaid, to wit, on, &c. four months pay had become due to the said regiment, to wit, at, &c. whereof the said Edmund then and there had notice; yet the said Edmund so being such agent as aforesaid, not regarding his business and duty as such agent, nor the act of parliament aforesaid, nor fearing the penalties therein in that behalf contained, did not nor would state and make with the paymaster general, or other respective paymasters of his majesty's forces for the time being, an exact account for the two preceding months, that is to say, for the two first of the said four months of all monies due according to the muster rolls of the said regiment, nor deliver to each captain of the said regiment an account of so much thereof as respectively appertained to him and his company, and the inferior officers or soldiers thereof, nor see that such accounts were so stated, made, and delivered either by the said Edmund, or by the colonel of the said regiment for the time being, contrary to the tenor and effect of the said act of parliament in that behalf; whereby and by force of the said act of parliament the said Edmund forfeited for his said offence to any person who should inform and sue for the same the sum of two hundred pounds; and thereby and by force of the said act of parliament an action hath accrued to the said Hugh to demand and have of and from the said Edmund the said sum of two hundred pounds so forfeited as aforesaid, parcel of the said sum of pounds above demanded.

FOR that the said Thomas after the first day of July, A. D. Count on 24. 1785, to wit, on, &c. at, &c. did use a certain gin for the tak- Geo. 3. c. 43. ing and destruction of hares, the said gin then and there being an *for using a gin to catch hares,* engine for the taking and destruction of hares, without having ob- with a Count on tained a certificate from the clerk of the peace, or deputy clerk of 2. Geo. 3. for the peace of the said county of C. of his the said Thomas having *exposing a hare to sale.* delivered into the office of the clerk of the peace, or deputy clerk of the peace, a paper writing or account, containing the name and place of abode of him the said Thomas in such manner as by the statute in that case made and provided is directed, against the form of the statute in such case made and provided, by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said Joseph to demand and have of and from the said Thomas twenty pounds, parcel of the said sum of thirty pounds above demanded: And the said Joseph further saith, that the said Thomas afterwards, and within six months next before the exhibiting the bill of the said Thomas, to wit, on, &c. did *expose to sale one hare* against the form of, &c. by reason whereof and by force

force of the statute in such case made and provided, an action hath accrued, &c. &c. [3d Count like the 2d, only charging the offence to have been committed the first day of January 1786].

Plea in bar, prior judgment in B. R. for the same offences.

WHITE } **FIRST**, *Nil debet*; and for further plea, &c. *actio*
at suit of } *non*; because he says, that after the said time when
LONG. } the said supposed offences were above supposed to have
 been committed, and long before the suing forth the original writ of the said John, to wit, in Trinity term, in the eighth year of the reign of our lord the now king, he the said plaintiff for the recovery of the said supposed debt of one hundred pounds above demanded, before our lord the king, at Westminster, came by P. D. his then attorney, and brought into the court of our lord the king then there his certain bill against the said J. W. being in the custody of, &c. of a plea of debt, and there were pledges to prosecute, to wit, John Doe and Richard Roe, and by the said bill complained against the said J. W. so then being in the custody of, &c. [here recite the declaration]; and afterwards, to wit, on, &c. in Michaelmas term, in the eighth year of the reign of our lord the now king, to which day the said J. W. had licence to imparl to the said bill and then to answer, and so forth, before our lord the king, at Westminster, come as well the said plaintiff by his aforesaid attorney, as the said defendant by W. C. his attorney, and the said defendant defended the wrong and injury, when, &c. [here recite the plea, &c.] which said issue so joined as aforesaid, afterwards, to wit, on, &c. in the ninth year of the reign of our lord the now king, at the general sessions of the assizes of our lord the now king then held in and for the said county of , before the honourable sir Richard Aston, knight, then one of his majesty's justices of the court of king's bench, and the honourable Edward Willes, esquire, then one other of the justices of the said court of king's bench, then justices of our said lord the now king, appointed to take the assizes for the said county of S. according to the form of the statute, &c. came on to be tried and was tried by a jury of the said county of S. then and there drawn by ballot, according to the form, &c. &c. and duly elected, tried, and sworn to try the issue so joined as aforesaid, and which said jury so being elected, tried, and sworn, said upon their said oaths at the said trial that the said defendant did not owe to the said plaintiff the said one hundred pounds or any part thereof in manner and form as the said plaintiff had by his said bill complained against the said defendant, and thereupon afterwards, and before the suing forth the original writ of the said plaintiff in the present suit now between the said plaintiff and the said defendant in this court here, to wit, on, &c. in Michaelmas term, in the tenth year of the reign of our said lord the now king, in the said county of our said lord the now king, before the king himself, at Westminster aforesaid, it was considered in and by the said court that the said plaintiff should take nothing by his said bill in that behalf; but that he
 and

and his pledges to prosecute in that behalf should be in mercy, and that the said defendant might depart that court without day, forever dismissed therefrom, &c. as by the record and proceedings, &c. at Westminster, &c. which said judgment still remains in the court of our said lord the now king, before the king himself, at Westminster aforesaid, in full force, vigour, and effect, not reversed, annulled, or made void: And the said defendant further says, that the said Joseph, the plaintiff named in the said former suit in the said court of our said lord the king, before the king himself, and the said Joseph, the plaintiff in this suit now depending in this court here, are one and the same person, and not divers or different persons, and that the said John, the defendant named in the said suit in the said court of the said lord the king, before the king himself, and the said John, the defendant in the said present suit now depending in this court here, are one and the same person, and not divers and different persons, and that the said two several supposed offences mentioned in the said bill of the said Joseph in the said former suit in the said court of our said lord the king, before the king himself, and the said two supposed offences mentioned in the said declaration of the said Joseph in this present action or suit now depending in this court here, and by the said declaration alledged to have been committed by the defendant, are the very same two supposed offences, and not other and different offences, only that the two supposed offences above complained of are in and by the said declaration of the said Joseph in the present plea now depending in this court here, alledged and set forth in the said declaration with some few, little, and immaterial variances from the said two supposed offences set forth and alledged in the said bill in the said former suit in the said court of our said lord the now king, before the king himself, that the same, though in fact the same and not different, might rather seem to be divers and different offences from those in the said bill mentioned; and this, &c.; wherefore, &c. if, &c.

MIDDLESEX, to wit. R. S. who sues as well for the poor of the parish of, &c. in, &c. as for himself in this behalf, complains of Joseph Mucklow being, &c. of a plea that he render to the poor of the said parish and to the said Richard who sues as aforesaid eight hundred pounds of lawful, &c. which he owes to and unjustly detains from them; for that one W. P. from and after the first day of May, A. D. 1711, that is to say, on, &c. to wit, at, &c. did at one and the same time by playing at a certain game called fives lose to the said Joseph a large sum of money, to wit, the sum of four hundred pounds of lawful, &c. and did then and there pay the same to the said Joseph: And the said Richard who sues as aforesaid in fact saith, that the said W. P. who lost the said sum of one hundred pounds as aforesaid did not within the time in that behalf limited and prescribed, that is to say, within three months then next, sue or with effect prosecute for the said sum

Declaration on *qui tam* the 9th Ann, against defendant for winning money of one A. B. at a game called fives.

sum of one hundred pounds so by him lost and paid as aforesaid, whereby and according to the form of the statute in such case made and provided an action hath accrued to the said Richard who sues as aforesaid, to sue for and recover of and from the said Joseph the said sum of one hundred pounds, and treble the value thereof, making together the sum of four hundred pounds, parcel of the said sum of eight hundred pounds above demanded: And the said Richard, who sues as aforesaid, further saith, that the said Joseph after the said first day of, &c. that is to say, on, &c. to wit, at, &c. received to the use of the said W. P. the further sum of one hundred pounds of like lawful, &c. then and there lost by the said W. P. to the said Joseph at one and the same time, by playing at a certain other game called fives, and then and there paid by the said W. P. to the said Joseph: And the said Richard who sues as aforesaid in fact further saith, that the said W. P. who so lost the said last-mentioned sum of one hundred pounds as aforesaid did not within the time in that behalf limited, &c. &c. whereby and according to the form of, &c. an action hath, &c. to sue for, &c. residue of the said sum of eight hundred pounds above demanded; yet the said Joseph, although often requested, hath not yet rendered the said sum of eight hundred pounds above demanded or any part thereof either to the poor of the said parish, being the parish where the said several offences were committed, or to the said Richard who sues as aforesaid, but to render the same or any part thereof he the said Joseph hath hitherto wholly refused, and still refuses so to do, to the said Richard his damage of pounds, and therefore as well for the poor of the parish as for himself in this behalf he brings his suit, &c.

Postea.

And the jurors of that jury being summoned also came, who to say the truth of the within contents being chosen, tried, and sworn, as to the sum of four hundred pounds in the first Count of the within declaration mentioned, and parcel of the said sum of eight hundred pounds within demanded, say upon their oaths, that the within named Joseph doth owe to the poor of the within parish and to the within named Richard, who sues as within mentioned, the said sum of four hundred pounds, in manner and form as the within named Richard, who sues as within mentioned, within complains against him, and they assess the costs of the within named Richard by him about his suit in this behalf expended to forty shillings; and as to the sum of four hundred pounds in the last Count of the within declaration mentioned, and residue of the said sum of eight hundred pounds within demanded, the jurors aforesaid, upon their oaths aforesaid, do further say, that the said Joseph doth not owe to the said parish nor to the said Richard who sues as within mentioned the said last-mentioned sum of four hundred pounds or any part thereof, as the said Richard hath within in that behalf alledged; therefore it is considered, that the said Richard who sues as within mentioned do recover against the said Joseph his said debt of four hundred pounds by the jurors aforesaid, in form aforesaid found, together with the said costs in form aforesaid assessed, and

and also pounds for his costs and charges by him about his suit in this behalf expended by the court of our said lord the king now here adjudged of increase to the said Richard who sues as within mentioned, and with his assent, according to the form of the statute in such case made and provided, which said debt and costs in the whole amount to pounds, and be the said Joseph thereof in mercy, and be the said Richard also in mercy for his false claim against the said Joseph as to the said four hundred pounds, whereof the said Joseph is acquitted as aforesaid; and the said Joseph may go thereof without day.

Drawn by MR. TIDD.

MIDDLESEX, to wit. Giles Long complains of Thomas Stevenson being, &c. of a plea that he render to the said Giles sixty pounds of lawful, &c. which he owes to and unjustly detains from him, &c.; for that the said Thomas not regarding the laws and statutes of this realm, nor fearing the penalties therein contained, after the first day of June, A. D. 1711, to wit, on, &c. at, &c. in, &c. a certain letter written by one A. B. and directed to the said Giles, by the name of Giles Long, to be left at the India Coffee-house, Leadenhall-street, in which was inclosed a piece of the gold coin of this realm, commonly called a guinea, of a large value, to wit, of the value of one pound one shilling, and delivered into the post-office at Westminster aforesaid, to the intent that the same should be carried and delivered to him the said Giles after the same had been delivered into the post-office at Westminster aforesaid, and before the delivery thereof to him the said Giles, to whom the same was directed or to his use, unlawfully, willingly, and knowingly did procure to be detained, contrary to the form of the statute in such case lately made and provided, by reason whereof and also by force of the statute in such case made and provided an action hath accrued to the said Giles to demand and have of and from the said Thomas twenty pounds, parcel of the said sixty pounds above demanded: And the said Giles further saith, that the said Thomas not regarding the laws, &c. &c. [finish this Count same as the first, only omitting what is in Italic]: And the said Giles further saith, that the said Thomas not regarding the laws, &c. &c. [finish this Count same as the second, only instead of saying "detained" say "delayed"]; nevertheless, &c. [Common conclusion in debt].

Declaration on stat. 9. Ann, c. 9. §. 40. for causing a letter with a guinea inclosed to be detained.

2d Count.

3d Count.

J. MORGAN.

LONDON, to wit. Samuel Fuller, who sues as well for our lord the king as for himself in this behalf, complains of David Lock being, &c. of a plea that he render to our said lord the king and the said Samuel who sues as aforesaid fifty pounds of lawful money of Great Britain, which he owes to and unjustly detains from them; for that by a certain indenture, made at London aforesaid,

Declaration on the 9. Ann, c. 21. for not paying the stamp duty on a town apprentice's fee.

aforesaid, to wit, in the parish of, &c. after the first day of May, A. D. 1710, to wit, on, &c. between the said Samuel, by the name and description of S. F. of Primrose-street, London, gentleman, of the first part, John Fuller, son of the said S. F. of the second part, and the said defendant, by the name and description of Daniel Lock, of the parish of St. Giles, Cripplegate, London, carver and gilder, of the third part, duly executed, bearing date the same day and year aforesaid, the said J. F. did put himself apprentice to the said Daniel in the trade and business of a carver and gilder, and with him, after the manner of an apprentice to serve from the day of the date of the said indenture for the term of three years and four months then next following, and that in consideration of the premises, and for and in respect of the said apprenticeship, the said Samuel who sues as aforesaid, the father of the said apprentice, then and there, to wit, on, &c. at, &c. in, &c. gave and paid to the said Daniel the sum of ninety pounds, as a reward and consideration for the said Daniel's taking the said John his son to be his apprentice as aforesaid: And the said Daniel, who sues as aforesaid, further saith, that the said Daniel did not pay or cause to be paid, within one month next after the date of the said indenture, to our said lord the king or to his majesty's receiver-general for the time being of the duties upon stamped vellum, parchment, and paper, the sum of one shilling for every twenty shillings of the said money so by him received as aforesaid, according to the form, effect, and exigence of the statute in such case made and provided, whereby and by force of the said statute an action hath accrued to the said Samuel, who sues as aforesaid, to demand and have of and from the said Daniel for our said lord the king and himself the said Samuel the said sum of fifty pounds above demanded: yet the said Daniel, although often requested, hath not paid the said sum of fifty pounds or any part thereof to our said sovereign lord the king, or to the said Samuel who sues as aforesaid, or to either of them, but to pay the same the said Daniel hath hitherto wholly refused, and still doth refuse, to the damage of the said Samuel who sues as aforesaid of ten pounds, and therefore as well for our said lord the king as for himself he brings suit, &c.

F. BULLER.

There can be no doubt but that this is an indenture, whatever may be the effect of the binding, on account of its being for a less term than seven years; and

therefore I see no use whatever in putting more than one Count.

F. BULLER.

Declaration on the 9. Ann, c. 21. for not paying the stamp duty on an apprentice's fee, where part of

MIDDLESEX, to wit. Thomas Lee, who sues in this behalf as well for our sovereign the king as for himself, complains of George Northam, being, &c. of a plea that he render to our said lord the king and the said plaintiff who sues as aforesaid the sum of fifty pounds of lawful money of Great Britain, which he owes to the fee was paid down and the other part agreed to be paid afterwards,

and

fly detains from them; for that whereas by a certain in-
bearing date the twenty-sixth day of, &c. one R. H. son
of, &c. in the parish of, &c. did by and with the con-
sайд father, testified as therein mentioned, put himself
e to the said defendant, by the name and addition of
, &c. in, &c. to learn his art, and with him after the
f an apprentice, to serve from the day of the date thereof
full end and term of seven years from thence next ensuing,
to be complete and ended, and the said defendant thereby
ad was, and from thence hitherto hath been, and still is, the
the said R. H. his said apprentice, to wit, at, &c.: And
the said T. H. then and there, to wit, on, &c. at, &c.
paid to the said defendant the sum of ten pounds, and
there contracted and agreed for the further sum of ten
be given and paid by him the said T. H. to the said de-
: the expiration of two years from the date of the said in-
making together the sum of twenty pounds, given, paid,
l, and agreed for with and in relation to the said R. H.
here, in and by the said indenture, put and placed to and
aid defendant as his apprentice, to learn his art aforesaid,
of which said several premises, and by force of the statute
se made and provided, the said defendant as master of the
. his said apprentice, became liable to pay and ought to
to our sovereign lord the king, within one month next
late of the said indenture, the sum of ten shillings, being
f sixpence for every twenty shillings of the said sum of
unds so given, paid, contracted, and agreed for as afore-
the said defendant, not regarding the statutes in that
and provided, nor fearing the penalty therein contained,
ithin one month next after the date of the said indenture
for the use of our said lord the king the said sum of ten
r any part thereof, but for and during all that time
glected so to do, by means whereof, and by force of the
that case made and provided, the said defendant forfeited
d offence the sum of fifty pounds, and thereby and by
ie same statute an action hath accrued to our said lord
and the said plaintiff who sues as aforesaid, to demand
of and from the said defendant the said sum of fifty
p. forfeited as aforesaid, being the sum above de-
nevertheless, &c. &c. [Common conclusion to *qui tam*

the said defendant, by A. B. his attorney, comes and de- Plea, *nil debet.*
wrong and injury, when, &c. and says, that he doth not
said lord the king and the said plaintiff who sues as aforesaid,
n of fifty pounds or any part thereof, in manner and form as
plaintiff hath above thereof complained against him; and
puts himself upon the country, &c.

Declaration on the 9th Ann. c. 21. for not paying the stamp duty on a sum of money paid by a father on turning over his son (who had been originally bound to him) to another master, according to the custom of London.

LONDON, to wit. Henry Craffwell the elder, who well for our lord the king as for himself in this behalf, com of Richard Green, being in the custody, &c. of a plea render to our said lord the king and to the said Henry, who one hundred pounds of lawful money of Great Britain, w our said lord the king and the said Henry, who, &c. be on unjustly detains; for that whereas after the first day of May 1715, the day of the commencing of the act of ninth Ann, on the third day of May, in the year of Our Lord 1743, : don, to wit, in the parish of Saint Mary-le-Bow, in the Cheap, by a certain indenture in writing then and there m duly executed, bearing date the day and year last above-m ed, one Henry Craffwell the younger, son of the said Henr well the elder, for and in consideration of natural love an tion of the said Henry the father to his said son, was put ar ed apprentice to and with the said Henry Craffwell the el the said H. C. the elder then being a citizen and cooper of L to learn his art, and with him after the manner of an appre serve from the day of the date thereof for and during, and a full end and term of seven years from thence next ensuing, a to be complete and ended, an entry of which putting and pla said H. C. the younger apprentice to and with the said H. C. th to learn his said art, as an apprentice as aforesaid, within c next after the making of the said indenture, to wit, on the year last-mentioned, before Robert Willimot, then mayo city of London, at the Guildhall of the said city, was enr record according to the custom of the same city time out used therein; and whereas afterwards, and after the said enr to wit, on the tenth day of February, in the year last aforesaid, don, &c. aforesaid, the said R. he the said R. then being all zen and cooper of London, did contract and agree with H. C. the elder, who as well, &c. for the sum of twe pounds to be paid to the said Richard by the said H. C. well, &c. on demand, that the said H. C. the younger according to the custom of the said city of London tim mind used therein, be turned over apprentice to the said l to learn his art, and with him after the manner of an appre serve from thence for and during the then residue of the s of seven years in the said indenture mentioned, which wa come and unexpired, and the said H. C. the younger, on t day and year last-mentioned, at London aforesaid, in the p ward aforesaid, was by and with the consent of him the s the younger, according to the said custom of the said city don, and in pursuance of the said contract and agreement the said R. and the said H. C. who, &c. turned over appre the said R. to learn his art, and with him after the mann apprentice to serve from thence for and during the residu said term of seven years in the said indenture mentioned w then to come and unexpired, ‡ which said turning over o H. C. the younger was on the day and year last-mentione

R. W. then mayor of the said city of London, at the Guildhall of the same city, enrolled of record according to the custom of the same city time out of mind used therein, and the said Richard thereby became master of the said H. C. the younger for the space of six months from thence next ensuing; whereby the said Richard, as master of the said H. C. the younger, became liable and ought to have paid to our said sovereign lord the king the sum of ten shillings and sixpence, being the sum of sixpence for every twenty shillings of the said twenty-one pounds so contracted and agreed for, according to the form of the statutes in such cases made and provided, within one month next after the said tenth day of, &c.; and the said Richard being master of the said H. C. the younger, at L. aforesaid, on the day and year last-mentioned, and by the space of one month then next ensuing (the said month being the time in and by the statutes in such cases made and provided, within which the said sum of ten shillings and sixpence ought to have been paid), did neglect to pay the same, according to the form of the statutes in such cases made and provided, by means whereof an action hath accrued to our said lord the king and to the said H. C. the elder, who as well, &c. to demand and have of the said Richard the sum of fifty pounds, parcel of the said one hundred pounds above demanded: And whereas afterwards, and after the said first day of May, A. D. 1715, to wit, on, &c. [go on as in the first Count to this mark † then proceed]; and the said H. C. the younger last named, on, &c. was, by and with the consent of him the said H. C. the younger, according to the said custom of the said city, and in pursuance of the said contract and agreement last-mentioned between the said R. and H. C. who, &c. turned over apprentice to the said R. to learn his said trade or mystery of an ironmonger, and with him after the manner of an apprentice to serve for and during the residue of the said term in the said last-mentioned indenture mentioned, which was then to come and expired, which said turning over of the said H. C. the younger last named, was on, &c. before R. W. then mayor of the city of L. at the Guildhall of the same city, enrolled of record, according to the custom of the said city time out of mind used therein; and the said Richard thereby became master of the said H. C. the younger for the space of six months from thence next ensuing, whereby the said R. as master of the said H. C. the younger last named, became liable and ought to have paid to our sovereign lord the king the sum of ten shillings and sixpence, &c. &c. [as above], by reason of which an action hath accrued, &c. &c. fifty pounds, residue of the said one hundred pounds above demanded. Common conclusion in actions *qui tam*.]

LONDON, to wit. Samuel Smith, who sues as well for our sovereign lord the king as for himself in this behalf, complains of the forbearing a sum of money, part advanced in cash, and the rest charged as the price of watches; and of the sum lent and actual value of the watches; with various other Counts.

Declaration on the statute of usury, 12. Ann.

Thomas Harding being, &c. of a plea that he render to our said lord the king and to the said Samuel who sues as aforesaid the sum of three thousand seven hundred and six pounds eight shillings and sixpence of lawful money of Great Britain, which he owes to our said lord the king and to the said Samuel who sues as aforesaid and unjustly detains from them; for that the said Thomas heretofore to wit, on, &c. at, &c. in, &c. upon a certain corrupt contract then and there made between the said Thomas and one David Old, took, accepted and received of and from the said D. O. a certain sum of money, to wit, the sum of thirteen shillings and fourpence of lawful money of Great Britain by way of corrupt bargain and loan, for the forbearing and giving day of payment to the said Thomas to the said David Old, from thence, to wit, from the day and year last aforesaid, until and upon the eighth day of February then next ensuing, that is to say, until and upon the eighth day of February, in the year of Our Lord 1784, of a certain other sum of money, to wit, the sum of seventy-nine pounds six shillings and eightpence of like lawful money, that is to say, the sum of fifty-eight pounds six shillings and eightpence of lawful money, part thereof, then and there, to wit, on the seventeenth day of December, in the year of Our Lord 1783 aforesaid, at London aforesaid, in the parish and ward aforesaid, lent and advanced by the said Thomas to the said David Old, of the further sum of twenty-one pounds of like lawful money residue thereof, being the sum of money charged for and pretended to be the value of certain wares and merchandizes, that is to say, one gold watch and one silver watch, then and there, to wit, on the day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, bargained for and sold by the said Thomas to the said David Old, which said sum of thirteen shillings and sixpence so as aforesaid taken, accepted, and received by the said Thomas of and from the said David Old in manner and for cause aforesaid, exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of statute in such case made and provided; whereby and by force of the said statute the said Thomas forfeited for his said offence a sum of two hundred and thirty-eight pounds, being treble the value of the said sum of seventy-nine pounds six shillings and eightpence so forborne as aforesaid; and by force of the said statute an action hath accrued to the said Samuel, who sues as aforesaid, to demand and have for our said lord the king and for himself in that behalf and from the said Thomas the said sum of two hundred and thirty-eight pounds so forfeited as aforesaid, parcel of the said sum of three thousand seven hundred and six pounds eight shillings and sixpence above demanded: And also, for that the said Thomas heretofore to wit, on the said seventeenth day of December, in the year of Our Lord 1783 aforesaid, at London aforesaid, in the parish and ward aforesaid, upon a certain other corrupt contract then and there made between the said Thomas and the said David Old took, accepted, and received of and from the said David Old a certain

other sum of money, to wit, the sum of thirteen shillings
 pence of like lawful money of Great Britain by way of
 bargain and loan, for the forbearing and giving day of
 it by the said Thomas to the said David Old, from thence,
 from the day and year last aforesaid until and upon the said
 day of February then next ensuing, that is to say, until and
 the eighth day of February, in the year of Our Lord 1784
 of a certain other sum of money, to wit, the sum of
 five pounds six shillings and eightpence of like lawful money,
 and there, to wit, on the said seventeenth day of December,
 year of Our Lord 1783 aforesaid, at London aforesaid, in
 the parish and ward aforesaid, lent and advanced by the said Tho-
 mas to the said David Old, which said last-mentioned sum of thir-
 teen shillings and fourpence so as last aforesaid taken, accepted,
 received by the said Thomas of and from the said David Old
 for and for the cause last aforesaid, exceeds the rate of five
 per cent for the forbearing of one hundred pounds for a year, con-
 trary to the form of the statute in such case made and provided:
 and by force of the said statute the said Thomas forfeited for
 the last-mentioned offence the further sum of one hundred and
 five pounds, being treble the value of the said last-men-
 tioned sum of fifty-eight pounds six shillings and eightpence so for-
 feited as last aforesaid, and thereby and by force of the said statute an
 action accrued to the said Samuel, who sues as aforesaid, to
 have and have for our said lord the king and for himself in this
 action and from the said Thomas the said sum of one hundred
 and fifty-five pounds so forfeited as last aforesaid, other parcel of
 the sum of three thousand seven hundred and six pounds eight
 shillings and sixpence above demanded. [3d Count like the first, 3d Count.
 changing the time of forbearance to have been till the eleventh
 day of February instead of the eighth. 4th Count like the second, 4th Count.
 with the same difference as between the first and third, that is,
 changing the eighth of February to the eleventh]. 5th Count, 5th Count.
 and for that the said Thomas heretofore, to wit, on the said
 eighth day of December, in the year of Our Lord 1783 afore-
 said, at London aforesaid, in the parish and ward aforesaid, upon
 and for other corrupt contract then and there made between the
 said Thomas and the said David Old, took, accepted, and receiv-
 ed from the said David Old a certain other sum of money,
 the sum of fourteen shillings and sixpence of like lawful
 money of Great Britain, by way of corrupt bargain and loan for
 forbearing and giving day of payment by the said Thomas to
 the said David Old, from thence, to wit, from the day and year
 last aforesaid until and upon the said eighth day of February then
 next ensuing, that is to say, until and upon the said eighth day of
 February, in the year of Our Lord 1784 aforesaid, to wit, the
 sum of twenty-nine pounds five shillings and sixpence of like law-
 ful money, that is to say, of the sum of fifty-eight pounds five
 shillings and sixpence of like lawful money, part thereof, then and
 there, to wit, on the said seventeenth day of December, in the
 year

year of Our Lord 1783 aforesaid, at London aforesaid, in parish and ward aforesaid, lent and advanced by the said Th to the said David Old, and of the further sum of twenty-one pounds of like lawful money, residue thereof, being the sum of money charged for and pretended to be of the value of certain other ware merchandizes, that is to say, one gold watch and one silver watch then and there, to wit, on the day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, bargained for and sold by the said Thomas to the said David Old, which said sum of *fourteen shillings and sixpence* so as last aforesaid accepted, taken, and received by the said Thomas of and from the said David Old in manner and for the cause last aforesaid, exacted at the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute in such behalf made and provided; whereby and by force of the said statute the said Thomas forfeited for his said last-mentioned offence the sum of two hundred and thirty-seven pounds, being treble the value of the said sum of seventy-nine pounds so forborne as last aforesaid, and thereby and by force of the said statute another sum hath accrued to the said Samuel, who sues as aforesaid, to demand and have for our said lord the king and for himself in this behalf and from the said Thomas the said sum of two hundred and thirty-seven pounds so forfeited as last aforesaid, other parcel of the said sum of three thousand seven hundred and six pounds abovementioned.

6th Count, For taking on the seventeenth day of December 1783 the sum of fourteen shillings and sixpence for forbearing until the said eighth day of February the sum of fifty pounds then lent by the defendant to Old.

7th Count, For taking on the said seventeenth of December 1783 the sum of fourteen shillings and sixpence for forbearing until the eleventh day of February, of the sum of seventy-nine pounds, that is to say, fifty pounds lent, and twenty-one pounds charged as the value of the watches, being the same as the fifth Count, except the eleventh day of February.

8th Count, For taking on the said seven day of December 1783 the sum of fourteen shillings and sixpence for forbearing until the eleventh of February the sum of fifty-eight pounds then lent by defendant to Old, being the same as the sixth Count with the like difference as between the fifth and seventh Count.

9th Count, And also for that the said Thomas heretofore, on the said seventeenth day of December A. D. 1783, at London &c. upon a certain other corrupt contract then and there made between the said Thomas and the said D. O. took, accepted, received of and from the said D. O. a certain other sum of money to wit, the sum of eleven pounds thirteen shillings and four pence of like lawful money of Great Britain, by way of corrupt gain and loan for the forbearing and giving day of payment by the said Thomas to the said David Old, from thence, to wit, from the day and year last aforesaid until and upon the said eighth day of February then next ensuing, that is to say, until and upon the said eighth day of February in the year of Our Lord 1784, of a

6th Count.

7th Count.

8th Count.

9th Count.

other sum of money, to wit, the sum of sixty-eight pounds six shillings and eightpence of like lawful money, that is to say, of the sum of fifty-eight pounds six shillings and eightpence of like lawful money, part thereof then and there, to wit, on the said seventeenth day of December, in the year of Our Lord 1783 aforeaid, at London aforeaid, in the parish and ward aforeaid, lent and advanced by the said Thomas to the said David Old, and of the further sum of ten pounds of like lawful money, residue thereof, being the real value of certain other wares and merchandizes, that is to say, one gold watch and one silver watch, then and there, to wit, on the day and year last aforeaid, at London aforeaid, in the parish and ward aforeaid, bargained for and sold by the said Thomas to the said David Old, which said last-mentioned sum of eleven pounds thirteen shillings and fourpence so as last aforeaid taken, accepted, and received by the said Thomas of and from the said David Old, in manner and for the cause last aforeaid, exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute in such case made and provided, whereby and by force of the said statute the said Thomas forfeited for his said last-mentioned offence the further sum of two hundred and five pounds, being treble the value of the said sum of sixty-eight pounds six shillings and eightpence so forborne as last aforeaid, and thereby and by force of the said statute an action hath accrued to the said Samuel, who sues as aforeaid, to demand and have for our said lord the king and for himself in this behalf of and from the said Thomas the said last-mentioned sum of two hundred and five pounds so forfeited as last aforeaid, other parcel of the said sum of three thousand seven hundred and six pounds eight shillings and sixpence above demanded. 10th Count same 10th Count.
as the 9th, only substituting the eleventh for the eighth of February 11th Count, for taking on the seventeenth December 1783 the 11th Count.
sum of eleven pounds fourteen shillings and sixpence for forbearing until the eighth February, the sum of sixty eight pounds, that is to say, the sum of fifty-eight pounds lent, and ten pounds, the real value of the watches, being the same as the ninth Count, except in the sums of money lent and taken for interest. 12th Count 12th Count:
like the tenth, except in the sums lent and taken for interest, and also like the eleventh, except that the time of forbearance is stated to be until the eleventh instead of the eighth February.
(All the former Counts state the interest to have been taken from Old.) 13th Count, And also for that the said Thomas, to wit, on 13th Count.
the said eleventh day of February 1784 aforeaid, to wit, at, &c.
upon a certain other corrupt contract then and there, to wit, on the said seventeenth day of December A. D. 1783, at, &c. in, &c. made between the said Thomas and the said D. O.
accepted, and received of and from one W. H. a certain sum of money, to wit, the sum of thirteen shillings and fourpence of like lawful money of Great Britain by way of corrupt bargain and loan, for having forborne and given day of payment to him the said D. O. from thence, to wit, from the day and year

year last aforesaid until and upon the said eleventh day of February A. D. 1784 aforesaid, of a certain other sum of money, to wit, the sum of seventy-nine pounds of like lawful money, that is to say, the sum of fifty-eight pounds of like lawful money, part thereof to wit, on the said seventeenth day of December 1783 aforesaid, at, &c. in, &c. lent and advanced by the said Thomas to the said D. O. and of the further sum of twenty-one pounds of like lawful money, residue thereof, being the value of certain other wares and merchandize, that is to say, one gold watch and one silver watch, then and there, to wit, on, &c. at, &c. in, &c. bargained for and sold by the said Thomas to the said D. O. which said sum of thirteen shillings and fourpence so as last aforesaid taken, accepted, and received by the said Thomas from the said W. H. in manner and for the cause last aforesaid exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute in that behalf made and provided, whereby and by force of the said statute the said Thomas forfeited for his said last-mentioned offence the sum of two hundred and thirty-eight pounds, being the value of the said last-mentioned sum of seventy-nine pounds forborne as last aforesaid, and thereby and by force of the said statute an action hath accrued, &c. &c.

14th Count, For taking on the said eleventh day of February from the said W. H. the sum of thirteen shillings and fourpence, for having forborne to the said D. O. from the said seventeenth day of December until the eleventh day of February the sum of fifty-eight pounds on the said seventeenth day of December, lent to the said D. O.

15th Count, like the thirteenth, only stating the sum taken for interest to have been fourteen shillings and sixpence instead of thirteen shillings and fourpence, and the sum forborne instead of seventy-nine pounds to have been seventy-nine pounds six shillings and eightpence to have been seventy-nine pounds six shillings and sixpence, that is to say, the sum of fifty-eight pounds six shillings and sixpence instead of fifty-eight pounds six shillings and eightpence lent, and the further sum of twenty-one pounds charged for and pretended to be the value of the watches.

16th Count, like the fourteenth, for taking on the said eleventh day of February from the said W. H. the sum of fourteen shillings and sixpence instead of thirteen shillings and fourpence, for having forborne to the said D. O. from the said seventeenth day of December till the eleventh day of February the sum of fifty-eight pounds six shillings and sixpence instead of fifty-eight pounds six shillings and eightpence, on the said seventeenth day of December lent to the defendant to D. O.

17th Count, For taking from the said W. H. on the said eleventh day of February the sum of eleven pounds thirteen shillings and fourpence for having forborne to the said D. O. the sum of eighty-eight pounds six shillings and eightpence, that is to say, the sum of fifty-eight pounds six shillings and eightpence, part thereof to wit, on, &c. lent and advanced by the said Thomas to the said D. O. and of the further sum of ten pounds of like lawful money, residue thereof, being the real value of certain other wares and merchandize, that is to say, one gold watch and one silver watch, then and there, to wit, on, &c. at, &c. in, &c. bargained for and sold by the said Thomas to the said D. O. which said sum of thirteen shillings and fourpence so as last aforesaid taken, accepted, and received by the said Thomas from the said W. H. in manner and for the cause last aforesaid exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute in that behalf made and provided, whereby and by force of the said statute the said Thomas forfeited for his said last-mentioned offence the sum of two hundred and thirty-eight pounds, being the value of the said last-mentioned sum of seventy-nine pounds forborne as last aforesaid, and thereby and by force of the said statute an action hath accrued, &c. &c.

zes, that is to say, one gold, &c. then and there, to wit, bargained for and sold by the said Thomas to the said 18th Count like the seventeenth, only stating the sum ta- 18th Count.
or interest to have been eleven pounds fourteen shillings and
ce, and the sum forborne, instead of sixty-eight pounds six
gs and eightpence to have been sixty-eight pounds five shil-
nd sixpence, that is to say, the sum of fifty-eight pounds five
gs and sixpence instead of fifty-eight pounds six shillings and
ence lent, and the further sum of ten pounds, the real value
watches.

he trial of this cause the fact ap-
o be, that the defendant had dis-
for Old on the seventeenth day
mber a bill for eighty pounds,
e eighth of the same month, and
pon W. H. at two months, and
the eleventh of February, when
regularly paid the defendant Old ;
payment, gave two watches va-
twenty guineas, though in truth

worth only ten pounds, and computed
the discount for the whole two months
(being thirteen shillings and fourpence)
though near a fortnight was expired, be-
sides which he said he never paid odd
halfpence, and deducted another shilling
out of the cash Old was to have receiv-
ed for a bowl of punch, upon which the
plaintiff had a verdict.



Trinity Term, 21. Geo. III.

INSON, who, &c. } LONDON, to wit. And whereas the
against }
GRIFFITHS. } said Tudor Griffiths, after the twenty-
1714 } ninth day of September, in the year of Our
afore- } said, and before the day of exhibiting of the bill of
John } John Parkinson who sues as afore-
said, } to wit, on the twen-
nth } nth day of September, in the year of Our Lord 1780, at
n } n afore-
said, } said, in the parish and ward afore-
said, } said, by and upon a
other } other corrupt contract and agreement made by and between
id } id Tudor Griffiths and the said Thomas Daniel and John
after } after the said twenty-ninth day of September, in the year of
ord } ord 1714 afore-
said, } said, to wit, on the sixteenth day of June,
year } year of Our Lord 1780 afore-
said, } said, at London afore-
said, } said, in
rith } rith and ward afore-
said, } said, did take, accept, and receive from
d } d Thomas Daniel and John Wall the sum of nine pounds
in } in shillings and sevenpence of lawful money of Great Bri-
or } or the said Tudor Griffiths's forbearing and giving to the
Thomas } Thomas Daniel and John Wall day of payment to the said
Griffiths } Griffiths of the sum of five hundred and sixty pounds and
in } in shillings before then, to wit, on the said sixteenth day of
the } the year of Our Lord 1784 afore-
said, } said, at London afore-
said, } said, in
rith } rith and ward afore-
said, } said, lent by the said Tudor Griffiths
and } and Thomas Daniel and John Wall from the said time of the
lending } lending thereof in manner and form following, to wit, the sum
of } of hundred pounds, part thereof, until the twelfth day of
the } the year of Our Lord 1780, the sum of sixty pounds
in } in shillings, other part thereof, until the seventeenth day
of } of the year last afore-
said, } said, and the sum of two hundred
pounds } pounds thereof, until the twenty-second day of September
in } in

Count on
the statute of
usury, 12 Ann.
c. 16. for the
forbearing a sum
of money paid
at three diffe-
rent times.

in the year last aforesaid, which said sum of nine pounds ~~and~~ shillings and sevenpence so taken, accepted, and received ~~by~~ said Tudor of and from the said Thomas Daniel and John ~~of~~ aforesaid, on occasion and for the forbearance last aforesaid, ~~at~~ the rate of five pounds for forbearing of one hundred ~~pounds~~ one year, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the statute in such case made and provided, the said Tudor hath forfeited for his last-mentioned offence the sum of one thousand six hundred eighty-two pounds, being the treble value of the said five hundred and sixty pounds so lent and so forborne as aforesaid, by reason of which said premises, and by force of the statute in such case made and provided, an action hath accrued to his said majesty and to said John who sues as aforesaid to demand and have for our lord the king and the said John who sues as aforesaid, of and from the said Tudor, the said one thousand six hundred and eighty-two pounds so forfeited as aforesaid, other parcel of the said four thousand eight hundred and nineteen pounds above demanded.

G. Wool

Plea in abatement that the contracts were made by the defendant and two other persons jointly.

And the said Tudor in his own proper person comes and presents judgment of the bill aforesaid, and that the same may be quashed because he says, that the several and respective contracts and agreements in the bill aforesaid alledged to have been made and between the said Tudor and Thomas Daniel and John (if any such were made) were made between the said Tudor : J. C. and J. D. of the one part, and the said Thomas Daniel : John of the other part, and not between the said Tudor and said Thomas Daniel and John only, to wit, at London aforesaid in the parish and ward aforesaid; wherefore, since the said J. and J. D. are not named and made defendants in the said bill, said Tudor prays judgment thereof, and that the same may quashed, &c.

J. MORGAN.

Declaration on the statute of usury, 9. Ann. c. 16. against a pawnbroker, stating the agreement and the pledge.

LONDON, to wit. Lewis Openheim (*qui tam*) against Thomas Hammond, of a plea that he render, &c.; for that whereas after the twenty-ninth day of September A. D. 1714, to wit, on, &c. at, &c. in, &c. it was corruptly, and against the form of the statute in such case made and provided, agreed between the said Thomas and one J. B. that the said Thomas should lend to the said J. B. the sum of fifty-two pounds ten shillings, to be repaid by the said J. B. to the said Thomas whensoever the said Thomas should think fit to repay the same, so as such repayment thereof should be made within the space of calendar month next after the lending thereof to the said Thomas by the said Thomas, and that the said Thomas should forbear and give to the said J. B. time for the repayment to the said Thomas of the said sum of fifty-two pounds ten shillings so to be lent by the said Thor

to the said Joseph, to wit, all such time as the said J. B. should think fit to take for that purpose, not exceeding calendar months from the time of the lending the said sum of fifty-two pounds ten shillings by the said Thomas to the said Joseph; and that the said Joseph for the forbearing and giving time of payment of the said sum of fifty-two pounds ten shillings so to be lent by the said Thomas to the said J. B. as aforesaid, should pay and give to the said Thomas the sum of fourpence for every twenty shillings of the said fifty-two pounds, and twopence for the said ten shillings for every calendar month, and fourpence for every twenty shillings of the said fifty-two pounds, and twopence for the said ten shillings for all such odd days less than a calendar month of all such time as should run out or elapse between the time of the lending of the said sum of fifty-two pounds ten shillings by the said Thomas to the said J. B. and the time of the repayment of the said fifty-two pounds ten shillings by the said Joseph to the said Thomas; and that for securing as well of the repayment to the said Thomas of the said sum of fifty-two pounds ten shillings so to be lent by him the said Thomas to the said Joseph as aforesaid, and also of the payment to the said Thomas of the said money so to be given and paid by the said J. B. to the said Thomas for the said forbearing and giving to the said J. B. time of payment to the said Thomas of the said sum of fifty-two pounds ten shillings so to be lent by the said Thomas to the said Joseph; he the said Joseph should at the time of lending of the said fifty-two pounds ten shillings by the said Thomas to the said Joseph, deposit and leave in the hands of the said Thomas as a pledge or pawn divers goods and chattels, to wit, four silver candlesticks, &c. &c. being goods and chattels of a much greater value than the sum of fifty-two pounds ten shillings, and the interest thereof at the rate aforesaid, for calendar months, to wit, of the value of one hundred and twenty pounds, and that the said Joseph should pay to the said Thomas the said fifty-two pounds ten shillings so to be lent by the said Thomas to the said J. B. as aforesaid, together with the interest thereof, at the rate aforesaid, within the said space of calendar months next after the said lending of the said fifty-two pounds ten shillings by the said Thomas to the said J. B. or at the end of the said calendar months, and that if the said J. B. should be in default therein, that then the said Thomas should be at liberty to keep and retain the said pledges for ever thereafter as his own property, irredeemable by the said J. B. or to sell or dispose of the same to satisfy himself the said fifty-two pounds ten shillings, and the interest thereof at his own election: and the said Lewis, who sues as aforesaid, further saith, that in pursuance and performance of the said corrupt agreement he the said Thomas afterwards, that is to say, on, &c. at, &c. in, &c. delivered unto the said J. B. the said sum of fifty-two pounds ten shillings so agreed to be lent as aforesaid by the said Thomas to the said J. B. to be repaid to the said Thomas by the aforesaid Joseph when the said J. B. should think fit to repay the same, so

as such repayment thereof should be made to the said within the space of calendar months next after the said thereof by the said Thomas to the said Joseph; and the said Thomas did then and there forbear and give to the said J. B. the repayment to the said Thomas of the said sum of pounds ten shillings, so by the said Thomas lent and advanced to the said Joseph as aforesaid, to wit, all such time as the said Joseph should think fit to take for that purpose, not exceeding calendar months, from the said time of the said lending of the said sum of fifty-two pounds ten shillings by the said Thomas to the said Joseph; and the said Joseph then and there for the securing the repayment to the said Thomas of the said fifty-two pounds ten shillings so by the said Thomas lent to the said Joseph as aforesaid, as also of the payment to the said Thomas of the said money to be given and paid by the said Joseph to the said Thomas for the said forbearing, and giving time of payment as aforesaid of the said sum of fifty-two pounds ten shillings so lent by the said Thomas to the said Joseph as aforesaid, did at the same time and place of the said lending of the said sum of fifty-two pounds ten shillings by the said Thomas to the said Joseph as aforesaid, deposit and leave in the hands of the said Thomas as a pledge or pawn the said goods and chattels above particularly mentioned, and so agreed that the said sum of fifty-two pounds ten shillings so lent by the said Thomas to the said Joseph as aforesaid, should be repaid to the said Thomas by the said Joseph at the said place last aforesaid, according to the form and effect of the said agreement, gave and paid unto the said Thomas the sum of one pound fifteen shillings for the forbearing and giving time of payment to the said Thomas of the said sum of fifty-two pounds ten shillings, from the said time of the said lending of the said sum of fifty-two pounds ten shillings by the said Thomas to the said Joseph as aforesaid, to the said time of the said repayment to the said Thomas of the said fifty-two pounds ten shillings by the said Joseph as aforesaid, being at and after the rate of fourpence for every twenty shillings of the said fifty-two pounds, and twopence for the said ten shillings for every calendar month; and the said sum of one pound fifteen shillings so given and paid by the said Joseph to the said Thomas in manner and for the cause aforesaid, the said Thomas then and there according to the said agreement

accepted, and received of and from the said J. B. for the said forbearing and giving to the said J. B. time for the repayment to the said Thomas of the said sum of fifty-two pounds ten shillings so by him the said Thomas lent to the said J. B. as aforesaid, from the said time of the said lending thereof to the said J. B. to the time of the said repayment thereof to the said Thomas according to the said agreement, and which said sum of one pound fifteen shillings so given and paid by the said J. B. to the said Thomas as aforesaid, and for the cause aforesaid, and so accepted, had, and received by the said Thomas of the said J. B. as aforesaid, and for the cause aforesaid, exceeds the rate of five pounds for the forbearing of one hundred pounds for one year, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute an action hath accrued to the said Lewis, who sues as aforesaid, to demand and have for our said lord the king and for himself the said Lewis of and from the said Thomas the sum of one hundred and fifty-seven pounds ten shillings, being double the value of the said sum of fifty-two pounds ten shillings so lent by the said Thomas to the said Joseph as aforesaid, and so forborne by the said Thomas as aforesaid, parcel of the said, &c. above demanded. [There were other general accounts for taking enormous interests upon corrupt contracts for the loan of the money, from the time of its being advanced to the time of the repayment, &c. &c.]

See Burr. Rep. 20.

MIDDLESEX, to wit. Elizabeth Read, who sues as well for our sovereign lord the king as for herself in this behalf, complains against James Massie, being in the custody, &c. of a plea that the said James render to our said lord the king, and to the said Elizabeth who sues as aforesaid, one thousand five hundred pounds lawful money of Great Britain, which he owes to and unjustly takes from them; for that whereas after the twenty-ninth day of September, which was in the year of Our Lord 1714, and before exhibiting of the bill of the said Elizabeth, who sues as aforesaid, to wit, on the fourteenth of April in the year of Our Lord 1715, at the parish of St. Martin in the Fields, in the city of Westminster, in the said county of Middlesex, it was corruptly against the form of the statute in such case made and provided, made by and between the said James of the one part, and one Thomas Gray of the other part, that he the said James should lend to the said Thomas Gray the sum of one hundred pounds of lawful money of Great Britain, and should forbear and give day of payment thereof five months after, and that the said James for the loan and forbearance of the said sum of one hundred pounds for that time by the said James, should pay to the said James the sum of ten pounds of like lawful money; and that the said Thomas Gray in the securing of the payment as well of the said sum of one hundred pounds so to be lent as aforesaid, as of the said ten pounds to be

Declaration on the statute of usury, stating the agreement, and a note given in pursuance of it, with several other Counts.

be paid for the forbearing and giving day of payment, thereof in manner as aforesaid, should on the same fourteenth day of April, in the said year of Our Lord 1785, make and deliver his certain note in writing, commonly called a promissory note, with his own proper hand thereto subscribed, to bear date the same day and year last aforesaid, whereby he the said Thomas Gray five months after date of the said note should promise to pay to the said James Maffie, or order, the sum of one hundred and ten pounds: And the said Elizabeth, who sues as aforesaid, in fact further saith, that in pursuance of the said corrupt bargain and agreement so made as aforesaid, he the said James afterwards, to wit, on, &c. at, &c. in, &c. did lend to the said Thomas Gray the said sum of one hundred pounds, and the said Thomas Gray did then and there for the securing the payment as well of the said sum of one hundred pounds so lent by the said James to the said T. G. as aforesaid, as of the said ten pounds so to be paid by the said T. G. as aforesaid for the loan and forbearance in manner aforesaid, make his certain note in writing, commonly called a promissory note, with his own proper hand thereunto subscribed, bearing date the same day and year last aforesaid, whereby he the said T. G. did five months after the date of the said note, promise to pay to the said James or order the sum of one hundred and ten pounds, value received by him the said T. G. which said note he the said T. G. then and there delivered to the said James for the cause aforesaid: And the said Elizabeth, who sues as aforesaid, further saith, that the said James afterwards, and after the said twenty-ninth day of September, A. D. 1714, and before the exhibiting the bill of the said Elizabeth, who sues as aforesaid, to wit, on, &c. at, &c. in, &c. in pursuance of the said corrupt bargain and agreement so made as aforesaid, took, accepted, and received, and had from the said T. G. the said sum of ten pounds for the loan and forbearance of the sum of one hundred pounds for the said five months mentioned in the said note, which said sum of ten pounds so taken, accepted, received, and had by the said James for the cause aforesaid, exceeds the rate of five pounds for the forbearing and giving day of payment of the sum of one hundred pounds for one year, contrary to the form of the statute in such case made and provided; by means whereof, and by force of the statute in such case made and provided, an action hath accrued to the said Elizabeth, who sues as aforesaid, to demand and have of and from the said James, as well for our said lord the king as for herself the said Elizabeth, who sues as aforesaid, the sum of three hundred pounds, being treble the value of the said sum of one hundred pounds so lent by the said James to the said T. G. and parcel of the said sum of one thousand five hundred pounds above demanded: That the defendant on the said thirteenth day of October, upon a corrupt contract made on the fourteenth day of April 1785, received from the said T. G. another sum of ten pounds for forbearing another sum of one hundred pounds before that time, to wit, on the said fourteenth day of April lent by the said James to the said T. G. that is to say, so

2d Count.

the forbearing and giving day of payment of the said last-mentioned sum of one hundred pounds from the said time of lending thereof until the expiration of five months then next following, to wit, until the fourteenth day of September, A. D. 1785, which said last-mentioned sum of ten pounds so taken exceeds, &c. &c.: And the said Elizabeth, who sues as aforesaid, further says, that ^{3d Count} after the twenty-ninth day of September, A. D. 1784, and before she exhibiting the bill of the said Elizabeth, who sues as aforesaid, to wit, on, &c. at, &c. it was corruptly and against the form of the statute in such case made and provided, agreed by and between the said James of the one part, and the said T. G. of the other part, that he the said James should lend to the said T. G. the sum of other one hundred pounds of like lawful, &c. and should forbear and give day of payment thereof five months after that day, and that the said T. G. for the loan and forbearance of the said last-mentioned sum of one hundred pounds for the time last aforesaid by the said James, should pay to the said James the sum of other ten pounds of like, &c. at the end and expiration of the said five months last-mentioned; and that the said T. G. for the securing of the payment as well of the said last-mentioned sum of one hundred pounds so to be lent as last aforesaid, as of the last-mentioned sum of ten pounds to be paid for the forbearing and giving day of payment thereof in manner as last aforesaid, should on the same thirteenth day of April 1785, make and deliver his certain other note in writing commonly called a promissory note, with his own proper hand thereunto subscribed, to bear date the same day and year last aforesaid, whereby he the said T. G. five months after the date of the said last-mentioned note should promise to pay to the said James, or order, the sum of other one hundred and ten pounds: And the said Elizabeth, who sues as aforesaid, further saith, that in pursuance of the said corrupt bargain and agreement so made as last aforesaid, he the said James, afterwards, to wit, on, &c. did lend to the said T. G. the said last-mentioned sum of one hundred pounds, and the said T. G. did then and there for the securing the payment as well of the said last-mentioned sum of one hundred pounds so lent by the said James to the said T. G. as last aforesaid, as of the said last-mentioned sum of ten pounds, so to be paid to the said T. G. as last aforesaid for the loan and forbearance thereof in manner aforesaid, make his certain other note in writing commonly called a promissory note, with his own proper hand thereunto subscribed, bearing date the same day and year last aforesaid, whereby he the said James did five months after, &c. &c. (as ^{4th Count} 4th Count): That the defendant on the thirteenth day of October 1785, upon a contract made on the fourteenth day of April, 1785, and accepted from T. G. ten pounds for the forbearing of one hundred pounds lent on the said fourteenth day of April, that he the said T. G. for the forbearing and giving day of payment of the said last-mentioned sum of one hundred pounds from the said time of lending thereof for and during the space of and until the end of five months then next following, and from and after the expiration of the

5th Count.

the said five months until the said thirteenth day of October, A. D. 1785, which said last-mentioned sum of ten pounds so taken exceeds, &c. &c.: That the defendant on the thirteenth day of October 1785, upon a contract made on the fourteenth day of April, received ten pounds from T. G. for the forbearing of one hundred pounds lent on the fourteenth day of April, that is to say, from the time of lending thereof until the said thirteenth day of October, A. D. 1785, which said last-mentioned sum of ten pounds, &c. exceeds, &c. Common conclusion in actions *quidam*.

Declaration on the statute of 2. G. 2. for practising as a solicitor, not having been inrolled, with a Count on the 12. Geo. 2. for practising as an attorney in the county court.

JAMES PAYNE, ESQUIRE,
against
ROBERT TUCKER.

FOR that the said defendant, not regarding the statute in such case made and provided, nor fearing the penalty therein contained, after the making of a certain act of parliament, made at Westminster, in the second year of the reign of our late sovereign lord king George the Second, late king of Great Britain, &c. intituled, "An Act for the better Regulation of Attornies and Solicitors," and after the first day of December, A. D. 1730, mentioned in that act, and during the continuance of that act, and before the exhibiting of the bill of the said plaintiff, to wit, on, &c. in the eleventh year of the reign of our lord the now king, at Westminster, in the said county, did unlawfully in his own name act as a solicitor in his majesty's court of chancery (the said court of chancery then being held at Westminster, in the said county of Middlesex) in a certain cause or suit then depending in that court between J. T. complainant, and M. B. R. B. and A. B. defendants, in prosecuting and carrying on the said cause or suit on the part and behalf of the said J. T. and as his solicitor in that cause for and in expectation of gain, fee, and reward, to be therefore payable and paid to him, he the said defendant not being then nor having been at any time before then admitted and inrolled of any of the courts of law, or a solicitor of any of the courts of equity mentioned in the said act, according to the direction of that act, and as required by that act, contrary to the form, &c. whereby and by force of that act the said defendant forfeited for his said offence fifty pounds; and whereby and by force of that act an action hath accrued unto the said plaintiff to demand and have of and from the said defendant the said fifty pounds so forfeited as aforesaid, parcel of the said pounds above demanded: And the said plaintiff further says, that the said defendant not regarding the statute in such case made and provided, nor fearing the penalties therein contained, after the making of the aforesaid act of parliament of the said second year of the reign of our said late lord George the Second, late king of Great Britain, &c. and during the continuance of the said act, and before the exhibiting of the bill of the said plaintiff, to wit, on, &c. in the eleventh year of the reign of our said lord the now king, at &c. in, &c. did unlawfully *in the name of one F. D.* act as a solicitor

2d Count.

itor in his majesty's said court of chancery, the said court of chancery then being, &c. [as in the 1st Count to the end.]: un-^{3d Count.} lawfully in his own name did sue and prosecute out of his majesty's court of chancery, the said court then being, &c. a certain writ of our said lord the now king called a *recordari facias loquelam*, directed to the then sheriff of the county of G. for his recording of his certain plaint, then depending in the said then sheriff's county court between the said J. P. plaintiff, and one R. B. esquire, defendant, in a plea of taking and unjustly detaining of the cattle of the said J. P. and the said sheriffs having that record before his majesty's justices, at Westminster, in fifteen days then next following, on the part and behalf of the said R. B. and as his attorney, for and in expectation, &c. &c. as before: [Like the 3d Count,^{4th Count.} only leaving out the words "in his own name," in Italics:] And the said plaintiff further saith, that the said defendant not re-^{5th Count.} garding the statute in such case made and provided, nor in the least fearing the penalties therein contained, after the making of the aforesaid act of parliament of the said second year of the said king George the Second, and during the continuance of that act, and after the making of a certain other act of parliament, made at Westminster, in the twelfth year of the said king George the Second, intituled, "An Act for continuing the Act made in the eighth Year of the Reign of her late Majesty Queen Anne, to regulate the Price and Assize of Bread, and for continuing, explaining, and amending the Act made in the second Year of the Reign of his present Majesty for the better Regulation of Attornies and Solicitors;" and after the twenty-fourth day of June, A. D. 1739, in the said act of the said twelfth year of the said late king George the Second mentioned, and during the continuance of the said last-mentioned act, and before the exhibiting the bill of the said plaintiff, to wit, on, &c. in the eleventh year of, &c. at G. aforesaid, in the said county of G. unlawfully and against the form and effect of the said act of the said twelfth year of the reign of our said late king George the Second, in the county court of the then sheriff of the said county of G. then and there held, did defend a certain action then depending in the said county court at the suit of the said J. P. against the said R. B. in a plea of taking and unjustly detaining the cattle of the said Isaac, by then and there entering an appearance for the said R. B. at the suit of the said Isaac in the said county court in the said plea, as the attorney of the said R. B. in that suit, for and in expectation of his fee, and reward, to be therefore payable and paid to him the said defendant: And the said plaintiff further says, that the said defendant was not, nor at any time before then had been admitted an attorney of any of the courts of law, or a solicitor of any of the courts of equity mentioned in the said act of the reign of the said late king George the Second, according to the said act so made in the said second year of the reign of the said late king George the Second, against the form of the statute so made in the twelfth year

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of the reign of the said late king George the Second; whereby and by force of the said statute, an action hath accrued, &c. &c.

Trinity Term, 9. Geo. III.

Declaration on
stat. 2. Geo. 2.
c. 24. for bri-
bery at an elec-
tion for members
of parliament.

CORNWALL, to wit. John Crocker complains of Alexander Cockayne, of the borough of Tregony, in the said county, being, &c. of a plea that he render to him one thousand pounds of lawful, &c. which he owes to and unjustly detains from him; for that whereas the borough of Tregony, in the said county of Cornwall is an ancient borough, and for a long time past two burgeses of the said borough have been elected and sent, and have used and been accustomed, and of right ought to have been elected and sent, and still of right ought to be elected and sent to serve as burgeses for the said borough in the parliament of this kingdom, to wit, at the borough of T. aforesaid, in, &c.: And whereas on, &c. in the eighth year of the reign of, &c. a certain writ of our said lord the king, under the great seal of Great Britain, issued out of his said majesty's high court of chancery, the said court then being at Westminster, in the county of Middlesex, and directed to the then sheriff of the county of C. by which said writ our said lord the king reciting, that whereas by the advice and assent of his said majesty's council, for certain reasons and urgent affairs concerning his said majesty, the state and defence of his said majesty's kingdom of Great Britain and the church, our said lord the king had ordered a certain parliament to be holden at his majesty's city of Westminster, on the tenth day of, &c. then next ensuing, and there to treat and have conference with the prelates, great men, and peers of his majesty's realm, our said lord the king by the said writ commanded and strictly enjoined the said sheriff that proclamation being made of the day and place aforesaid, in the then next county court of the said sheriff, to be holden after the receipt of that his said majesty's writ, two knights of the most fit and discreet in the said county, girt with swords, and of every city of the said sheriff's county, two citizens, and of every borough in the same county, two burgeses of the most sufficient and discreet, freely and indifferently by those who at such proclamation should be present, according to the form of the statute in such case made and provided he should cause to be elected, and the names of those knights, citizens, and burgeses so to be elected, whether they should be present or absent, he should cause to be inserted in certain indentures to be thereupon made between the said sheriff and those who should be present at such election, and them at the day and place aforesaid, the said sheriff should cause to come in such manner, that the said knights for themselves, and the commonalty of the said county, and the said citizens and burgeses for themselves, and the commonalty of the said cities and borough respectively, might have from them full and sufficient power to do and consent to those things which then and there by the common council of his said majesty's kingdom, by the blessing of God should

should happen to be ordained upon the said affairs, so that for want of such power, or through an improvident election of the said knights, citizens, or burgessees, the said affairs might in nowise remain unfinished; willing nevertheless, that neither the said sheriff nor any other sheriff of that his said majesty's kingdom should be in anywise elected; and the said election in the said sheriff's full county so made distinctly and openly under his seal, and the seals of those who should be present at such election, the said sheriff should certify our said lord the king in his chancery at the day and place aforesaid without delay, remitting to our said lord the king one part of the aforesaid indentures annexed to the said writ, together with the said writ, which said writ afterwards, and before the return thereof, that is to say, on, &c. at the borough of T. aforesaid, in the said county of C. was delivered to F. K. esquire, who then and from thenceforth until and after the return of the said writ was sheriff of the said county of C. to be executed in due form of law; by virtue of which said writ the said sheriff afterwards, and before the return thereof, that is to say, on, &c. in the said eighth year aforesaid, at the borough of T. aforesaid, made his precept in writing, sealed with the seal of his office of sheriff of the said county of C. directed to the mayor and burgessees of the borough of T. of and for the election within the said borough, being within the said county of C. of two burgessees of the same borough, according to the form and effect of the said writ; by virtue of which said precept afterwards, and before the return thereof, to wit, on, &c. in the said eighth year of the reign of his present majesty at the borough of T. aforesaid, in the said county of C. an election of two burgessees of the said borough, to serve as burgessees of the said borough at the then next parliament, to be taken as aforesaid, was had and made: And the said J. C. further says, that at the time of the committing the several offences hereafter mentioned, and before and from thenceforth until and at the said election, Francis Thomas Fitzmaurice, earl of Kerry, in the kingdom of Ireland, and Archibald Buchanan, esquire, were candidates, that they might be elected and returned to serve as burgessees for the said borough at the aforesaid then next parliament, that is to say, at the borough of T. aforesaid: and the said J. C. further says, that the said A. C. not regarding the statute in that behalf made and provided, nor fearing the said penalties therein contained, after the twenty-fourth day of June, A. D. 1729, and before the said election of burgessees for the said borough, to wit, on, &c. in the said eighth year of, &c. at the borough of T. aforesaid, in the said county, he the said A. C. then and there, and from thenceforth until and at the time of the election aforesaid, began or claiming to have a right to vote in the said election, and gave his vote in the said election, did receive and take of and from P. C. esquire, a large sum of money, to wit, the sum of many pounds of lawful money of Great Britain, as a gift or reward for his the said A. C. giving his vote in the said election for and Francis Thomas, and A. B. contrary to the form of the

statute in such case made and provided; whereby and by force of the said statute an action hath accrued to the said J. C. to demand and have of and from the said A. C. five hundred pounds, paid the said one thousand pounds above demanded: And the said J. further saith, that the said A. C. not regarding the statute in case made and provided, nor fearing the said penalties contained therein, after the twenty-fourth day of, &c. and before the election of burgessees for the said borough, to wit, on, &c. in said eighth year of, &c. at, &c. he the said A. C. then and thenceforth until and at the time of the election aforesaid having or claiming to have a right to vote in the said election, to give his vote in the said election, did *agree to receive and* of and from the said P. C. a large sum of money, to wit, sum of twenty pounds of lawful, &c. as a gift or reward for the said A. C. giving his vote in the said election for the Francis and A. B. contrary to the form of, &c.; whereby and force of, &c. five hundred pounds, residue of the said one thousand pounds above demanded; yet, &c. [Common conclusion debt.]

Declaration on the general clause of the turnpike act of the 7. Geo. 3.

MIDDLESEX, to wit. R. H. complains of W. H. the elder, W. H. the younger, and R. W. being, &c. of a plea that they render to him the sum of twenty pounds which they owe to him, and that they unjustly detain from him, &c.; for that whereas the said defendants, on, &c. at, &c. were and still are indebted to the said plaintiff in the sum of twenty shillings of lawful money of Great Britain, being forfeited by an act of parliament passed in the seventh year of the reign of his present majesty, intitled, “Act to explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads of this Kingdom and for other purposes therein mentioned,” by reason whereof and by force of the said act of, &c. an action hath accrued to the said plaintiff to demand and have of the said defendant the aforesaid twenty shillings, parcel of the twenty pounds above demanded; and also, whereas the said defendants, on, &c. at, &c. borrowed of the said plaintiff the sum of nineteen pounds of lawful money of Great Britain, to be paid to the said plaintiff whenever they should be thereto afterwards requested; yet, &c. [Common conclusion in debt.]

Plea thereto, that defendant tendered the penalty within the time limited in the notice of action.

And the said defendants, by T. W. their attorney, come and defend the wrong and injury, when, &c. and say, that they do not owe to the said plaintiff the said twenty pounds or any part thereof in manner and form as the said plaintiff hath above thereof complained against them; and of this they put themselves upon the country: And for further plea as to the said twenty shillings in the first Count of the said declaration mentioned, they the said defendants by leave, &c. according, &c. *actio non*; because they say that before the time of exhibiting of the bill of the said plaintiff

this behalf, to wit, on, &c. at, &c. the said plaintiff did cause to be delivered to them the said defendants a certain note in writing, bearing date the same day and year last aforesaid, subscribed in the name of the said plaintiff, to take notice that, on, &c. they did travel with, use, and drive [here recite the notice to the end down to witness], under which said notice the said plaintiff then and there alledged and gave notice in writing that his attorney was Mr. Long, of Clement's Inn, No. 9, ground floor; and the said defendants further say, that the said plaintiff and his place of abode then was, and from thence hitherto hath been, and still is wholly unknown to them and each of them, and that the said offence mentioned in the said notice was and is the same identical offence mentioned in the said declaration of the said plaintiff, and that the said defendants after the receiving the said notice, and before the time of the commencement of the said action against them, and within ten days next after the receiving of the said notice, to wit, on, &c. at, &c. did offer to pay the said sum of twenty pounds to Henry M. Long, being the same person mentioned in the said notice, so being such attorney to the said plaintiff, by way of amends for the supposed offence in the said notice mentioned, and then and there tendered the same by way of such amends in payment to the said Henry, according to the form of the said statute mentioned in the said declaration of the said plaintiff, to receive which of and from the said defendants he the said H. M. L. then and there wholly refused: And the said defendants aver, that the said supposed offence mentioned in the said notice, and the said supposed offence mentioned in the first Count of the said declaration is one and the same offence, and not divers or different offences, and that the said R. H. the now plaintiff, and the said R. H. whose name was so as aforesaid subscribed to the said notice are one and the same person, and not divers and different persons; and this, &c.; wherefore, &c. if, &c.

And the said plaintiff, as to the said plea of the said defendants of them lastly above pleaded in bar, says *precludi non*; because alleging that the said plea in manner and form above pleaded, and the matters therein contained, are not sufficient in law, and that he hath no need nor is he obliged by the law of the land to answer thereto; for replication in this behalf the said plaintiff says, that they the said defendants did not, nor did any of them tender to the said H. M. L. in the said last plea mentioned the said sum of twenty shillings, in manner and form as the said defendants have in pleading alledged; and this he prays may be enquired of the country; and the said defendants do the like, &c.; therefore, &c.

Replication that they did not tender.

Declaration on
the statute of
21. Henry 8.
c. 13. against a
clergyman for
holding tithes,
and a farm up-
on lease, and for
dealing in corp
and wood.

EDWARD HEWETT
against

BENJAMIN H. PEPPER, CLERK, &c.

} FOR that whereas by a
certain act of parliament of
our lord Henry the Eighth,

late king of England, made in the twenty-first year of his reign,
it was enacted, ordained, and established, that no spiritual persons,
&c. &c. [the 1st and 5th sections of the 13th chapter are here re-
cited] as by the said act of parliament, relation being thereunto
had, may more fully and at large appear; and the said Edward who
sues as aforesaid says, that the said Benjamin, on, &c. and long
before was, and from thence hitherto hath been, and yet is a spiritu-
al person within the intent and meaning of the said act; neverthe-
less the said Benjamin so being a spiritual person within the inter-
and meaning of the said act, not regarding the said act, nor fear-
ing the penalties therein contained, he the said B. after the mak-
ing of the said act, while the said B. so was such spiritual person
as aforesaid, to wit, on, &c. at, &c. in, &c. did take to farm
himself of and from one S. H. and of the lease of the said S. H.
made after the making of the said act, and while he the said B.
was such spiritual person as aforesaid, to wit, on, &c. at, &c. cer-
tain hereditaments, to wit, all and singular the great tithes of cor-
yearly arising, renewing, springing on and coming off certain land
to wit, two hundred acres of land, with the appurtenances, situat-
lying, and being in the parish of, &c. in the said county of W.
held to him for and during and to the full end and term of diver-
years mentioned in the said lease, and fully to be complete and ended
and held and occupied the same hereditaments and farm under an
by virtue of the said lease; and by reason thereof, for and during th-
full and whole time and space of eleven months before the day of exhibi-
ing the bill of the said Edward, who as well, &c. he the said B. dur-
ing the whole space and time of eleven months, being and continu-
ing such spiritual person, against the form of the statute in such
case made and provided, whereby and by force of the statute in
such case made and provided he the said Benjamin forfeited for his
said offence to our said lord the now king and the said Edward, who
sues as aforesaid, one hundred and ten pounds, to wit, the sum
ten pounds for each and every of the said eleven months in which
he the said Benjamin so held and accepted the said hereditaments
and farm under and by virtue and reason of the said lease; and
whereby and by force of the said statute in such case made and
provided an action hath accrued to our said lord the now king and
the said Edward, who sues as aforesaid, to demand and have of him
from the said Benjamin, for our said lord the king and the said Ed-
ward, who sues as aforesaid, the said sum of one hundred and ten
pounds so forfeited as aforesaid, parcel of the said two thousand
four hundred and eighty pounds above demanded: And the said
Edward who sues as aforesaid, &c. [2d Count more general than
the first]: And the said Edward who sues as aforesaid further says
that the said B. so being a spiritual person as aforesaid within the
intent and meaning of the said act, &c. &c. [like the 1st Count
except that instead of what is in Italic you say,] at the parish
aforesaid

2d Count.

3d Count.

foresaid, in the county aforesaid, did take to farm to himself of and from one W. R. and of the lease of the said W. R. made by the said W. R. to the said Benjamin after the making the said act, and while he the said Benjamin so was such spiritual person as aforesaid, to wit, on, &c. at, &c. in, &c. for a certain term of years mentioned in the said lease, certain other lands, to wit, one hundred acres of land, with the appurtenances, situate, lying, and being in the parish and county aforesaid, and held and occupied the same by virtue of, and under and by reason of the said last-mentioned lease, for and during the whole space of time of eleven months next before the day of exhibiting, &c. &c. [as in the first count, *mutatus mutandis* to the end. 4th Count like the third, with the same alterations as between the first and second. 5th Count like the former ones to the offence], during the time that the said Benjamin so was and continued such spiritual person as aforesaid, to wit, on, &c. and on divers other days and times between that day and the day of the exhibiting of the bill of the said lord, who sues as aforesaid, at, &c. in, &c. bargained and sought to sell again for lucre, gain, and profit, a large quantity of corn, to wit, wheat, barley, rye, beans, peas, oats, contrary to the form of the statute in such case made and provided, and such corn so by him the said B. by himself bargained and bought to be sold again at the respective times of the said bargaining and selling the same, was of a large value, to wit, of the value of one hundred pounds; whereby and by force of the said statute the said B. forfeited to our said lord the king and to the said Edward, who sues as aforesaid, three hundred pounds for his said last-mentioned offence, being treble the value of the said corn so bargained and sought to be sold again as aforesaid, and whereby, &c. an action, &c. [5th Count, bargained and bought, &c. by his servant. 6th and 8th Counts like the fifth and sixth, only for wood instead of corn. 9th and 10th Counts like the fifth and sixth, only for malt instead of corn. 11th and 12th Counts like the fifth and sixth, only for malt instead of corn,

x-

LONDON, to wit. William Beatty, who sues as well for our sovereign lord the king as for himself in this behalf, complains that Thomas Langdon, being in the custody of, &c. in a plea that he owes to our said lord the king and to the said William, who sues as aforesaid, the sum of twenty pounds of good and lawful money of Great Britain which he owes to and unjustly detains from them; and that whereas the said Thomas, before and at the time of the committing the several offences hereafter mentioned, was an householder of the age of twenty-four years and upwards, dwelling and inhabiting in the city of London, being a city corporate, to wit, in the parish of, &c. in the ward of, &c. and there using a certain art, mystery, or manual occupation, that is to say, the art, mystery, or manual occupation of a shoemaker: And the said William in this further saith, that the said Thomas so being such householder

Declaration on the statute of 5. Edw. c. 4. the taking an apprentice to a shoemaker for a less time than seven years, and for setting a person at work in the trade of a shoemaker who had not been an apprentice.

2d Count.

as aforesaid, not regarding the statute in that case made and provided, nor fearing the penalties therein contained, did, during the time that he so dwelt and inhabited in the said city of L. and there used the said art, mystery, or manual occupation as aforesaid, to wit, on, &c. at, &c. in, &c. take and newly retain one J. C. (he the said J. C. not then being the son of a freeman) as the apprentice of him the said Thomas in the art, mystery, or manual occupation as aforesaid, for a less term than seven years, to wit, the term of one year, and no more, contrary to the tenor and true meaning of the statute in such case made and provided; whereby and by force of the said statute the said Thomas forfeited and lost for his said offence the sum of ten pounds, and thereby and by force of the said statute an action hath accrued, &c. to demand, &c.: And the said William who sues as aforesaid, in fact further saith, that the said Thomas heretofore, to wit, on, &c. at, &c. in, &c. did set the said J. C. to work in the said art, mystery, or occupation of a shoemaker (the same being a mystery or occupation used or occupied within the realm of England before and at the time of making the statute aforesaid), and did employ the said J. C. on such work for a long space of time, to wit, from the day and year last aforesaid, for the space of five months then next following (he the said J. C. at the time he was so set on work and employed as aforesaid, not having been apprentice as in and by the statute is directed), contrary to the form and effect of the statute aforesaid; whereby and by force of the said statute the said Thomas forfeited and lost for his said last-mentioned offence the sum of ten pounds, that is to say, the sum of forty shillings for every month of the said five months during which he the said Thomas did set on work and employ the said J. C. as aforesaid, and thereby and by force of the said statute an action hath accrued, &c. &c.; yet the said Thomas, &c. &c. [Common conclusion *qui tam*.]

Declaration on
the 23. Eliz.
c. 1. s. 4 and 5.
for hearing mass
and not going
to church.

MIDDLESEX, to wit. Thomas Williams, who sues as we for our sovereign lord the king as for himself in this behalf, complains of John Riley, being, &c. of a plea that he render to the said Thomas, who sues as aforesaid, the sum of two hundred and fifty-three pounds six shillings and eightpence of lawful money of Great Britain which he owes to our said lord the king and to the said Thomas, who sues as aforesaid, and unjustly detains from them; for that the said John, on, &c. at, &c. in, &c. did willingly hear mass, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute the said John forfeited for his said offence the sum of one hundred marks that is to say, the sum of thirty-three pounds six shillings and eightpence of lawful money of Great Britain, and thereby and by force of the same statute an action hath accrued to the said Thomas, who sues as aforesaid, to demand and have for our said lord the king and for himself in this behalf of and from the said John the said sum of one hundred marks so forfeited as aforesaid, parcel of the said sum

of two hundred and fifty-three pounds six shillings and eightpence above demanded: And the said Thomas, who sues as aforesaid, is further saith, that the said John, on, &c. and from thence for a long space of time, to wit, for the space of eleven months then next following, and before the commencement of this suit, during all which time he the said John was a person above the age of sixteen years, and inhabited in the said parish of, &c. in the county aforesaid, did not repair to any church, chapel, or usual place of common prayer, but for and during all the time aforesaid forbore the same, contrary to the tenor of the statute in that case made and provided; whereby and by force of the statute in that case made and provided the said John forfeited for his said last-mentioned offence twenty pounds of lawful English money, for every month which he did so forbear, amounting to a large sum of money, to wit, the sum of two hundred and twenty pounds of like lawful money, and thereby and by force of the said last-mentioned statute an action hath accrued, &c. &c. residue of the said sum of two hundred and fifty-three pounds six shillings and eightpence above demanded; yet, &c. &c. [Common conclusion *qui tam*. The defendant demurred generally.]

Drawn by MR. TIDD.

This action is founded on the statute of 23. Eliz. c. 1. f. 4, 5. Case Dr. Foster, 22 Co. 566.

ROBERT Williams *qui tam* against Benjamin Cherry, in debt Declaration on five thousand and forty pounds; for that whereas by an act the statute of 15. Cha. 2. c. 8. f. 2. is here recited; and the said Robert, who sues as aforesaid, further says, that the said Benjamin Cherry, after the making of the said act, and after the feast of St. Michael the said act mentioned, to wit, on, &c. and for divers years then past was and from thence hitherto hath been and still is a butcher, and the craft or mystery of a butcher during all the time aforesaid had and used, exercised and carried on, and still uses, exercises, and carries on, to wit, at London aforesaid, in the parish of, &c. and that he the said B. so being a butcher as aforesaid, and using, exercising, and carrying on the craft and trade of a butcher as aforesaid, within the time aforesaid, and after the feast of St. Michael aforesaid, to wit, on, &c. and on divers, &c. after the suing forth the original writ of the said Robert, who sues as aforesaid, at London aforesaid, in, &c. sold to divers persons to the said Robert unknown, divers, to wit, eight hundred and forty fat sheep alive, then being of the price or value of one thousand two hundred and sixty pounds, contrary to the form of the statute in that case made and provided; by reason whereof, and by force of the statute in such case made and provided, the said B. forfeited for his said offence the double value of the said cattle so sold by the said Benjamin as aforesaid; whereby and by force of the statute, &c. an action hath accrued to our said lord, &c. &c. two thousand two hundred and fifty pounds, the double value of the said cattle.

ad Count.

eight hundred and forty fat cattle so sold alive as aforesaid by said Benjamin, parcel of, &c. : And the said Robert, who sue aforesaid, further says, that the said B. so being a butcher as aforesaid, and so using, &c. &c. after the making of the said act, after the said feast of St. Michael in the said act mentioned, to on, &c. and on divers, &c. at, &c. *by one J. C. the then agent of the said B. in that behalf*, sold to divers persons to the said Robert unknown, divers, to wit, eight hundred and forty other fat cattle alive, then being of the price or value of one thousand two hundred and sixty pounds, contrary to the form of, &c. &c. the double value of the said cattle so sold *for the said B. by the said J. C. the then agent of the said B. for that purpose*, contrary, &c.; whereby, &c. yet,

Plea in abatement thereto, another action pending at plaintiff's suit for the same offence.

And the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and prays judgment of said bill; because he says, that in the term of Easter last before lord the king at Westminster came the said plaintiff, by G. G. attorney, and as well for our said lord the king as for himself exhibited in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, his certain bill against the said Richard, by the name of William Hembrow, being in the custody, &c. of a plea of debt, and found pledge prosecution, to wit, John Doe and Richard Roe, and by the bill the said John complained against the said Richard by the name of W. H. being, &c. of a plea, &c. which he owed, &c. [he recite the declaration to the end], as by the record thereof now here in the court of our said lord the king, before the king himself at Westminster remaining, more fully appears, which said record bill of the said plaintiff, who as well, &c. by him exhibited in the said court of our said lord the king, before the king himself in Easter term as aforesaid, at the time of the commencement of this suit, remained and was wholly undetermined, no ways discontinued, quashed, or annulled: And the said defendant further says that the six hundred sheep and the forty oxen, and the selling thereof, in the bill of the said plaintiff by him exhibited in Easter term as aforesaid first above-mentioned, and the said six hundred sheep and forty oxen, and the selling thereof, in the present bill first above-mentioned, are the same sheep, oxen, and selling, and not other and different; and that the said six hundred sheep and forty oxen, and the offering to sale thereof in the second Count of said bill of the said plaintiff by him exhibited in Easter term as aforesaid mentioned, and the said six hundred sheep and forty oxen, and the offering to sale thereof, in the second Count of this present bill mentioned, are the same sheep, oxen, and offering to sale, and not other or different; and that the said six hundred sheep and forty oxen, and the exposing to sale thereof, &c. &c. [going through all the Counts in the above manner]: And the said defendant further says, that the said person against whom the said plaintiff exhibited his said bill by the name of W. H. in Easter term as aforesaid, and the said Richard against whom the present bill

the said plaintiff is exhibited is the said Richard the now defendant, and are one and the same person, and not other and different persons; wherefore, &c. of this present bill of the said plaintiff, and that that bill may be quashed, &c. [With an affidavit as usual.]

And the said plaintiff, who sues as aforesaid, says, that by reason of any thing by the said defendant in his plea above alledged the said bill ought not to be quashed; because protesting that that plea and the matters therein contained are not sufficient in law to quash the said bill of the said plaintiff, who as well, &c. and that he the said plaintiff hath not any occasion, neither is he bound by the law of the land to answer, for these causes amongst others, to wit, for that the said plea is above pleaded after a full defence, inasmuch as the said defendant, by his attorney, comes and defends the wrong and injury, when, &c.; and also for that the said defendant hath not by his said plea alledged or averred that the former suit mentioned in his plea at the time of the pleading of that plea was depending and undetermined; for replication in this behalf the said plaintiff, who as well, &c. says, that after the commencement of the said former suit mentioned in the said plea, and long before the pleading of the said plea of the said defendant, to wit, in the term of the Holy Trinity, in the eleventh year of the reign of our lord the now king, the said former suit mentioned in his plea was duly discontinued and ended, as by the record of the said discontinuance remaining in the said court of our said lord the now king, before the king himself, at Westminster aforesaid, more fully appears; and this the said plaintiff, who as well, &c. is ready to verify by the said record; wherefore he prays judgment, and that the said now bill of the said plaintiff, who sues as aforesaid, may be adjudged good, and that the said defendant may answer over, &c.

Replication,
that the former
suit was discontinued.

YORKSHIRE, to wit. John Driver complains of James Smith, being, &c. in a plea that the said James render to the said John fifteen pounds of lawful money of Great Britain, which he owes to and unjustly detains from him; for that the said James, within six months next before the exhibiting of the bill of the said John, to wit, on, &c. at, &c. kept a lurcher to kill and destroy the game of that part of Great Britain called England, he the said James then not being a person qualified by the laws and statutes of this realm, or any of them, so to do, against the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided the said James forfeited for his said offence the sum of five pounds, and thereby and by force of the statute in such case made and provided an action hath accrued to the said John to demand and have of the said James the said five pounds so forfeited as aforesaid, parcel of the said fifteen pounds now demanded: And the said John further says, that the said James afterwards, and within six months next before, &c. &c.

Declaration on
the 2. Geo. 3.
c. 19. s. 5. (by
which the whole
penalties imposed
by the 5. Ann,
c. 14. are given
to the informer)
for keeping and
using a lurcher
for destroying
game, and for
exposing a hare
to sale.

2d Count.

used

3d Count.

used a certain other lurcher to kill and destroy the game of that part of Great Britain called England, he the said James not then being a person qualified, &c. &c. [as before to the end]: And the said John further says, that the said James afterwards, and within six months next before, &c. &c. *exposed one hare to sale*, the said hare then and there being of the game of that part of Great Britain called England, and the said James not being a person by the laws and statutes of this realm, or any of them, qualified in his own right to kill game, nor being entitled to such hare under any person so qualified, nor being a person qualified by the laws and statutes of the realm, or any of them so to do, against the form of the statute in such case made and provided; whereby and by force, &c. &c.; yet, &c. &c. [Common conclusion in debt.]

W. LAMBE.

There is no penalty given by any act of parliament against a person either for keeping or using a hound, or for killing a hare in the day time; there is a penalty indeed of five pounds given against any

person exposing a hare to sale, and the having a hare in his possession is by the 6. Ann, c. 25. §. 2. declared to be an exposing thereof.

W. LAMBE.

Declaration on the statute 2. Geo. 3. for keeping and using a setting dog and gun for destroying game.

Hilary Term, 3. Geo. III.

ISAAC SPERIN
against

WILLIAM BAKER.

FOR that the said William after the last day of Trinity term in the second year of the reign of our lord the now king, and before the exhibiting the bill of the said Isaac, to wit, on, &c. at, &c. *kept* a certain dog, commonly called a setting dog, for the destruction of the game of this kingdom, he the said William then not being a person qualified by the laws and statutes of this realm so to do, contrary to the form of the statute in that case made and provided; whereby and by force of the statute in that case made and provided the said William forfeited for his said offence the sum of five pounds, and whereby and by force of the statute, in such case made and provided an action hath accrued, &c. &c.: And the said Isaac further says, that after the last day of Trinity term, &c. &c. *used* a certain dog, commonly called a setting dog, &c. &c. 3d Count, *kept* one gun for the destruction of the game of this kingdom, the said gun then and there being an engine for the destruction of the game of this kingdom. 4th Count, *used* a certain other gun for the destruction of the game of this kingdom, the said last mentioned gun then and there being an engine, &c. &c. as in the 3d Count.

2d Count.

3d Count.

4th Count.

Michaelmas Term, 23. Geo. III.

Declaration on the 9. Ann, c. 14. for money won at E. O. and for treble the value of it.

MIDDLESEX, to wit. William Phillips, late of, &c. gentleman, was summoned to answer Robert Young, who sues as well for the poor of the parish of St. Paul, Covent Garden, in the county of Middlesex, as for himself in this behalf, of a plea that he render to the poor of the said parish and to the said Robert, who sues

aforesaid, the sum of four hundred and eighty pounds of money of Great Britain, which he owes to and unjustly from them, &c. ; and thereupon the said Robert, by A. B. mey, complains that one J. C. from and after the first day of A. D. 1711, that is to say, on, &c. to wit, at the parish of St. Paul, Covent Garden, in the county of Middlesex aforesaid, on and the same time and sitting, by playing at a certain game called E. O. lose to the said William a certain sum of money, to wit, the sum of sixty pounds of lawful money of Great Britain, and did then and there pay the same to him the said William. And the said Robert, who sues as aforesaid, in fact saith, that the said J. C. who so lost the said sum of sixty pounds as aforesaid, did not within the time in that behalf limited and prescribed, that is to say, within three months then next, sue or with effect prosecute for the said sum of sixty pounds so by him lost and paid as aforesaid, whereby and according to the form of the statute in such case made and provided, an action hath accrued to the said Robert, who sues as aforesaid, to sue for and recover of and from the said William the said sum of sixty pounds, and treble the value thereof, making together the sum of two hundred and forty pounds, and the said sum of four hundred and eighty pounds above said: And the said Robert, who sues as aforesaid, further saith that the said William, after the first day of, &c. &c. that is to wit, on, &c. at, &c. in, &c. received to the use of the said J. C. the said sum of sixty pounds of like lawful money of Great Britain, and there lost by the said J. C. to the said William at one and the same time and sitting, by playing at a certain game called E. O. and then and there paid by the said J. C. to the said William. And the said Robert, who sues as aforesaid, in fact further saith that the said J. C. who lost the said last-mentioned sum of sixty pounds as aforesaid, did not within the time in that behalf limited and prescribed, that is to say, within three months then next, sue or with effect prosecute for the said last-mentioned sum of sixty pounds so by him lost and paid as aforesaid, whereby and according to the form of the statute in such case made and provided, an action hath accrued to the said Robert, &c. &c. ; yet, &c. &c. [Common conclusion, *qui tam*.]

Drawn by MR. TIDD.

MIDDLESEX, to wit. A. Clarke (a) complains of B. Ben- Declaration on-
 &c. ; for that whereas by a certain act of parliament the stat. Hen. 6.
 the parliament of our late sovereign lord Henry the Sixth, c. 7. for conti-
 of England, at a session thereof holden at Westminster, nuing in the of-
 of Middlesex, in the twenty-third year of the reign fice of clerk to the
 of the king, intituled, "An Act," &c. it was amongst under sheriff of
 enacted, &c. (set out the title of the statute, and the Middlesex for
 which the action is founded *verbatim*) as by the said act more than a
 year.

should be *qui tam*, and begin with a demand of the penalty sued

of

of parliament (relation being thereunto had) will amongst other things more fully appear: And the said A. who sues as aforesaid, in fact saith, that at the time of committing the offence hereafter mentioned, the said county of Middlesex was not a county excepted in the said act of parliament hereinbefore recited, nor was the same county a county wherein or to which any of the king's liege people or either of them were or was at the time of the making of the said act inheritable, nor were or was the several and respective sheriffs under whom the said defendant acted as clerk as hereafter mentioned persons, or either of them a person who had any estate of freehold, or other estate whatsoever in the office of sheriff of the said county of Middlesex, nor had such sheriffs or either of them any letters-patent of the said late king Henry the Sixth, or any other letters-patent whatsoever made to them or either of them of the office of sheriff of the said county of Middlesex: And the said plaintiff who sues as aforesaid further saith, that the said defendant well knowing all and singular the premises aforesaid, but not regarding the statute aforesaid, nor the penalty therein specified, after the making of the said statute, and before the exhibiting of the bill of the said plaintiff, who sues as aforesaid, against him the said defendant, he the said defendant occupied the office of sheriff's clerk to the sheriffs of the county of Middlesex for the time then being for one entire year, to wit, from, &c. in the year of the reign of our lord the now king until, &c. then next following, under, &c. for the same time being the sheriff for the county aforesaid, to wit, at, &c. and after the expiration of that year in which he had so continued in the office of and to act as sheriff's clerk to the aforesaid sheriff of the said county of Middlesex, he the said defendant continued and remained in that office of sheriff's clerk to the sheriff of the said county of Middlesex for the time being, and continued to act therein from the end and expiration of the aforesaid year for one other entire year, to wit, from, &c. until, &c. then next following, to wit, at, &c. under, &c. for the same time being sheriff of the said county of Middlesex, so that the said defendant continued in, remained, and occupied the said office of sheriff's clerk to the aforesaid sheriffs of Middlesex respectively, for the time being, for two entire years together, contrary to the form and effect of the above in part recited statute in such case made and provided, by reason of which said several premises the said B. hath forfeited for his said offence to our said lord the now king and to him the said plaintiff, who sues as aforesaid, the said sum of two hundred pounds above demanded, and by reason thereof an action hath accrued, &c. &c. yet, &c. &c. (Common conclusion, *qui tam.*)

Hilary Term, 23. Geo. III.

Declaration on SHROPSHIRE, to wit. Sir John Chetwode, bart. by A. B. 5. Geo. 2. c. 14. his attorney, who is admitted by the court of our lord the now king at the suit of the pond owner, for *fishing* there and without his leave.

kin

king, before the king himself here, to prosecute for the said sir John, who is an infant within the age of twenty-one years, as the next friend of the said sir John, complains of Richard Drakeford being, &c. in a plea that he render to the said sir John twenty-five pounds of lawful money of Great Britain, which he owes to and unjustly detains from him: for that the said Richard, after the first day of June A. D. 1765, and within six months next before the bringing of this action, to wit, on, &c. at, &c. in a certain pond of the said sir John, that is to say, a certain pond of the said sir John there, not being in any park, paddock, or in any garden, orchard, or yard adjoining or belonging to any dwelling-house, but in a certain other inclosed ground their private property, did without the consent of the said sir John, the then owner of the said pond, *take, kill, and destroy* divers fish, to wit, five brace of pike, &c. there then being in the said pond, he the said Richard, at the time of the taking of the said fish, not having any just right or claim in the aforesaid pond to take, kill, or carry away the said fish, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided the said Richard forfeited and became liable to pay to the said sir John, the owner of the said pond at the time of taking, killing, and destroying the said fish therein as aforesaid, for the aforesaid offence, the sum of five pounds of lawful money of Great Britain; whereby and by force of the statute in such case made and provided an action hath accrued to the said sir John to demand and have of and from the said Richard the said sum of five pounds so forfeited as aforesaid, parcel of the said twenty-five pounds above demanded; and also for that the said Richard, after the first day of, &c. and within six, &c. [Go on with this Count same as the first, ^{2d Count.} only instead of saying "*take, kill, and destroy*," say only *take*.] [3d Count, exactly like the 2d Count, only for "*killing and de-* ^{3d Count.} *stroying*" the fish instead of taking them.] And also for that ^{4th Count.} the said Richard, after the first day of, &c. &c. [this Count like the former ones, only say that he "*attempted to take, kill, and destroy*" divers fish, &c. &c. omit the species of fish.] [5th ^{5th Count.} Count, for an "*attempt to take*," only the defendant having no right to *take, kill, or carry away* the said fish, contrary, &c. &c.] (Common conclusion in debt.)

V. LAWES.

LONDON (a), to wit. T. S. who sues as well for our sovereign lord the king as for himself in this behalf, complains of T. P. being, &c. of a plea that he render to our said lord the king and to the said plaintiff, who sues as aforesaid, ninety-one pounds seven shillings of lawful, &c. which he owes to and unjustly detains from them, &c.; for that whereas the said defendant, of his Declaration in debt *qui tam* on a fraudulent bill of sale of goods upon stat. 13. Eliz. c. 5.

(a) Qui tam actions are made local by 31. Eliz. c. 5.

malice,

malice, fraud, collusion, and deceit, after the tenth day of which was in the thirteenth year of the reign of our late sovereign lady Elizabeth, queen of England, France, and Ireland, & wit, on (b) A. D. 1787, at, &c. was a party to a feigned, covenant, and fraudulent bargain of certain good chattels of one T. D. to the end, purpose, and intent to hinder, and defraud the said plaintiff of a just and lawful debt the said plaintiff then being a creditor of the said T. D. for a certain sum of money, to wit, the sum of (c) twenty-four pence seventeen shillings and twopence) and being privy and knowing the same, he the said defendant the said bargain did then and wittingly and willingly put in, avow, maintain, justify, and do as true, simple, and done, had and made *bona fide* and upon consideration, by reason whereof, and also by force of the statute in such case made and provided, an action hath accrued to the plaintiff who sues as aforesaid (he the said plaintiff being the grievous by the said feigned, covenant, and fraudulent bargain demand and have for our said lord the king and for himself the said plaintiff of and from the said defendant (being the party to the said feigned, covenant, and fraudulent bargain, and being privy and knowing of the same) the whole value (d) of the said goods and chattels, to wit, the sum of forty-five pounds eighteen shillings, parcel of the said sum of ninety-one pounds sixteen shillings above demanded. [Add another Count same as first, only stating it to be a conveyance and not a bargain; with *qui tam* collusion.]

(b) The day of trial when the defendant offered the bill of sale in evidence, will I think do.

(c) The amount of the judgment.
(d) I think we may take the value of the bill of sale.

Declaration in debt on the stat. 28. Geo 3. c. 7. for selling less than one ounce of copper mixed on silk.

MIDDLESEX, to wit. William Seymour, who sues as for our sovereign lord the king as for himself in this behalf, complains of Francis Day, being, &c. of a plea that he render to the said lord the king and the said plaintiff, who sues as aforesaid a sum of eighty pounds of lawful money of Great Britain, which he owes to and unjustly detains from them; for that the said defendant, not regarding the statute in such case made and provided nor fearing the penalty therein contained, after the making of the same statute, and within six calendar months next before the passing of the bill of the said plaintiff who sues as aforesaid in this behalf, to wit, on, &c. at, &c. did sell to a person whose name is to the plaintiff, who sues as aforesaid, at present unknown, a quantity, to wit, a quantity less than one ounce of copper mixed upon contrary to the form of the statute in such case made and provided; whereby and by force of, &c. the said defendant forfeited by his said offence the sum of five pounds of like, &c. by reason whereof, and also by force of the said statute an action hath accrued, &c.: And the said plaintiff, who sues as aforesaid, fi

ad Count

but the said defendant not regarding, &c. (as first, only for a certain other quantity less than one ounce of copper set upon silk, contrary, &c.) 3d Count was for selling a quantity less than one ounce of copper set upon silk. 4th Count, selling another quantity less than one ounce of copper (being a metal inferior to silver) gilt and drawn into wire, contrary, &c. 5th Count, for selling another quantity less than one ounce of (being a metal inferior to silver) flatted into plate, contrary, &c. 6th Count, selling another quantity less than one ounce of copper (being a metal inferior to silver) gilt and flatted into plate, and made into spangles, contrary, &c. 7th Count, selling another quantity less than one ounce of copper (being a metal inferior to silver) gilt and flatted into plate, and made into a material called tinsel (the same tinsel being a material then used in the making of buttons made in the gold and silver manufactory) at the time of passing the statute aforesaid, contrary, &c. 8th Count, selling another quantity less than one ounce of copper (being a metal inferior to silver) gilt and flatted into plate, and made into a certain material called nine cut, the same being a material then and there used, &c. as in last Count. 9th Count, selling another quantity less than one ounce of copper (being a metal inferior to silver) gilt and flatted into plate, and made into a certain material called diamond cut, the same being, &c. at the time of passing the said statute, and set upon silk, contrary, &c. 10th Count, selling a quantity less than one ounce of copper (being, &c.) gilt and flatted into plate in imitation of lace made in the gold and silver lace manufactory at the time of passing the statute aforesaid, and set upon silk, contrary, &c. 11th Count, selling a quantity less than one ounce of copper (being, &c.) gilt and flatted into plate in imitation of fringe made in the gold and silver lace manufactory at the time of, &c. set upon silk, contrary, &c. 12th Count as last Count, only in imitation of cord made, &c. 13th Count as the eleventh, only in imitation of certain materials called spangles (the same being materials then and there used in the making of buttons made in the gold and silver lace manufactory) at the time of passing the statute aforesaid, and then set upon silk, contrary, &c. 14th Count, for selling another quantity less than one ounce of copper (being, &c.) gilt and flatted into plate in imitation of a certain material called tinsel (the same being a material then and there used, &c. as in last Count.) 15th Count, as last, only in imitation of a certain material called nine cut, the same being, &c. 16th Count, as last, only in imitation of a certain material called diamond cut, contrary, &c.; per quod actio accrevit; Yet, &c. the conclusion in qui tam actions in debt.]

Who sues in this behalf as well for our sovereign lord the king for himself, complains of R. B. being, &c. of a plea that he owes to our said lord the king and to the said T. S. who sues him, seven hundred and fifty pounds of, &c. which he owes

Declaration on the 7th. Geo. 3. for pirating prints in a magazine.

to and unjustly detains from them ; for that after the first day of January 1767, to wit, on, &c. at, &c. in, &c. one T. W. did, within the intent and meaning of the statute in that case made and provided, etch, and cause and procure to be etched in mezzotinto for the use of himself and one W. S. a certain print, to wit, a print taken from a certain modern picture of the countess of Derby: And the said T. S. who sues as aforesaid, further says, that they the said T. W. and W. S. being proprietors and owners of the said print, did afterwards, to wit, on, &c. at, &c. in, &c. first publish the said print by causing to be printed divers, to wit, five hundred prints therefrom, with the names of the said W. S. and the said T. W. under the description of W. S. and T. W. and the day of the first publishing thereof, printed and engraved on each of the said prints, according to the directions of the said statute: And the said T. S. who sues as aforesaid, further says, that at the several and respective times of the committing of the several and respective offences hereinafter mentioned, they the said W. S. and T. W. were and continued to be proprietors of the said print, to wit, at, &c.; yet the said R. B. well knowing the said premises, but not regarding the statute in that case made and provided, nor fearing the penalties therein contained, after the said first day of January, in the said year of Our Lord 1767, and within twenty-eight years next after the first publishing of the said print, and within six months next before the exhibiting of this bill, to wit, on, &c. and on divers other days and times between that day and the day of exhibiting this bill, at, &c. did without the consent of the said T. W. and W. S. proprietors of the said print, or either of them, first obtained in writing, signed in the presence of two witnesses, print and cause to be printed for sale divers, to wit, five hundred prints copied from the said print of the said W. S. and T. W. aforesaid, contrary to the form of, &c. by reason whereof and by force of the said statute an action hath accrued to the said T. S. who sues as aforesaid, to demand and have as well for himself as for our said lord the king of and from the said R. B. the sum of one hundred and twenty-five pounds of, &c. being five shillings for each of the said prints so as aforesaid printed and caused to be printed for sale, and parcel of the said sum of seven hundred and fifty pounds above demanded: And the said T. S. who sues as aforesaid, further says, that the said R. B. further disregarding the said statute in such case made and provided, and not fearing the penalties therein contained, after the said first day of January in the said year of Our Lord 1767, and within twenty-eight years then next after the first publishing of the said print of them the said W. S. and T. W. and within six months next before the exhibiting of the said bill of the said T. S. who sues as aforesaid, to wit, on, &c. and on divers other days and times between that day and the day of exhibiting this bill, at, &c. did sell and cause to be sold divers, to wit, five hundred other prints of the said W. S. and T. W. for the said R. B. then and there well knowing the same to have been copied from the said print of them the said W. S.

2d Count.

W. and to have been printed without the consent of them
W. S. and T. W. or either of them, contrary to the form
made as aforesaid, whereby and by force of the said statute
on hath accrued, &c. &c. being five shillings for each of the
nts so sold and caused to be sold as last aforesaid, and fur-
cel of the said sum of seven hundred and fifty pounds above
led. (3d Count same as second, only say that defendant *ex-*
sale instead of *had sold*.) And the said T. S. who sues as
d, further says, that, &c. that the said R. B. further disre-
; the statutes in that case made and provided, nor fearing,
er the first day of, &c. and within the said twenty-eight
xt after the publishing the said print of the said W. S. and
and within six months next before the day of exhibiting
bill, at, &c. did (without the consent of the said
and T. W. proprietors of the said print, or of either of
irst obtained in writing signed by two witnesses) print and
be printed for sale divers, to wit, five hundred other
of the said countess of D. in part copied from the said
the said W. S. and T. W. varying only a little from the
esign thereof, contrary to the form of, &c.; by reason
, and by force of, &c. &c. being five shillings for each of
last-mentioned prints so printed for sale as aforesaid, and fur-
cel of the said sum of seven hundred and fifty pounds above
ed: And the said T. S. who sues as aforesaid, further says,
said R. B. further disregarding, &c. and not fearing, &c.
sell and cause to be sold divers, to wit, five hundred other
as in second Count) in part copied from the said print of
W. S. and T. W. and varying only a little from the main
hereof, he the said R. B. then and there well knowing the
have been copied in part from the said print of them the
S. and T. W. and to vary only a little from the main de-
reof, and to have been printed without the consent of them
W. S. and T. W. or either of them, contrary to the form
et of, &c.; whereby and by force of, &c. &c. being five
for each of the said last-mentioned prints sold and caused
ld as last aforesaid, and further parcel of the said sum of le-
dred and fifty pounds above demanded. (6th Count same
with the same variation as in the second and third Counts.)
c. [Common conclusion, *qui tam*.]

3d Count.
4th Count, for
printing and sel-
ling part of print
copied, only va-
rying a little
from the main
design.

5th Count, for
selling other
prints in the 4th
Count so copied.

6th Count.

F. BULLER.

NORSHIRE, to wit. J. E. who sues as well for him-
he poor of the parish of P. in the said county, complains
being, &c. of a plea that he render to the poor of the
P. aforesaid, and the said J. E. who sues as aforesaid, the
one hundred pounds of, &c. which he owes to and unjust-
ly from them; for that the said J. H. not regarding the
in that case made and provided, nor fearing the penalties
imposed, after the twenty-fifth day of March, which was

Declaration on
the 18 Geo. 2.
c 20. for acting
as a justice of the
peace, not hav-
ing taken the
oaths required
by the statute.

Q 2

A. D.

Something
seems here to be
omitted.

A. D. 1746, and within six months next before the exhibiting the said bill of the said plaintiff who sues as aforesaid, to wit, or &c. within the principality of Wales, to wit, in the parish aforesaid, in the said county of R. took upon himself to act, and did act as justice of the peace for the said county of R. : And the said J. E. who sues as aforesaid, further saith, that the said J. H. did not at any time before he so acted as justice of the peace as aforesaid, at any general or quarter sessions of the peace in and for the said county of R. take and subscribe the oath ordered and enacted by the statute made in the eighteenth year of the reign of our late sovereign lord king George the Second, entitled, “ An Act to amend an
“ render more effectual an Act passed in the fifth year of his present Majesty’s reign, entitled, an Act for the further Qualifications of Justices of the Peace, to be taken and subscribed by
“ Persons before they take upon themselves to act as Justices; whereby and by force of the said statute the said J. H. hath forfeited to the poor of the said parish of P. in which parish the said J. H. usually resided, and to such person or persons who should sue for the same, the sum of one hundred pounds; whereby and by force of, &c. an action hath accrued, &c. ; yet, &c. [Common conclusion *qui tam*.]

Declaration for
acting as a com-
missioner of the
land tax, not be-
ing duly quali-
fied.

KENT, to wit. J. R. complains of J. P. being, &c. of a plea that he render to him one hundred pounds of, &c. which he owes to and unjustly detains from him; for that the said defendant, after the making of a certain act of parliament made at a session of parliament of our sovereign lord the king, holden by prorogation at Westminster, in the county of Middlesex, on, &c. in the third year of the reign of our present sovereign lord the king, entitled, “ An Act for granting an Aid to his Majesty by
“ a Land Tax to be raised in Great Britain for the Service of the
“ Year 1763,” after the commencement of the said act, and during the continuance of that act, to wit, on, &c. at, &c. in, &c. did presume to act and did act as a commissioner for the said county of K. in the execution of the said act of parliament in and for the said county of K. whereas in fact the said defendant at the time of his acting as a commissioner as aforesaid, or at the time of making or during the continuance of the said act of parliament, was not seised of or possessed of lands, tenements, or hereditaments freehold, copyhold, or leasehold, over and above all ground rents incumbrances, and other reservations payable out of or in respect of such leasehold estates which were taxed, and did pay in the said county of K. for the value of one hundred pounds a year or more of his own estate, by virtue of an act passed in the second year of his Majesty’s reign, entitled, “ An Act for granting an Aid to his
“ Majesty by a Land Tax to be raised in Great Britain for the
“ Service of the Year 1762,” contrary to the form of, &c. ; whereby and by force of, &c. an action hath accrued, &c. to demand and have of the said plaintiff fifty pounds, part of the said one hundred pounds

above demanded. (There was another Count exactly the same as the last, only that the defendant acted in the year 1764 of 1763); yet, &c. &c.

MIDDLESEX, to wit. **W. T.** who sues as well for our sovereign lord the king as for himself in this behalf, complains against **and T. L.** being, &c. of a plea that they render to our sovereign lord the king and the said **T. L.** who sues as aforesaid, one hundred and four hundred pounds of, &c. which they owe to and detain from them; for that whereas by a certain act of parliament of our late sovereign lord George the Second, king of Great Britain, at a certain session thereof holden at Westminster, county of Middlesex aforesaid, on, &c. 1748, entitled, "An Act for more effectually preventing the Importation and Wear of Foreign Embroiderery and Brocade of Gold and Silver Thread, and other Cloth made of Gold and Silver Wire, manufactured in Foreign Parts;" reciting that whereas, &c. &c. at the preamble, and the 1st, 2d, 3d, 4th, 5th, 6th, Sections of 22. Geo. 2. c. 36.] as by the said act of parliament relation being thereunto had, will more fully appear: the said plaintiff, who sues as aforesaid, further says, that the defendants on, &c. and long before, were, and from thence have been and still are taylors and dealers in foreign gold and silver thread, and the trade and business of taylors and dealers in gold wire and thread have during all that time used and carried on, to wit, at, &c. in, &c.; and that after the making of the said act of parliament, and after the said first day of, &c. in the said act mentioned, and within three calendar months next before the commencement of this suit, to wit, on, &c. at, &c. in, &c. there were found and seized in the house of the said defendants, in their possession (they the said defendants so then being taylors and dealers in foreign gold wire and thread) five parcels of work made of foreign gold wire and thread, to wit, one parcel of, &c. one other parcel of, &c. &c. all and every of which parcels of buttons had before then been wrought, fabricated and manufactured in foreign parts, and of foreign gold and silver thread, and had been before then brought and placed in the possession of the said defendants, and were and was then contained in the knowledge, privity, and consent of the said defendants, in the form of, &c. whereby and by force of, &c. the said defendants have forfeited for their said offence the sum of five hundred pounds, parcel, &c. : And the said **W. J.** who sues as aforesaid further says, that after the making of the said act of parliament after the said first day of, &c. and within three calendar months before the commencement of this suit, to wit, on, &c. there were found and seized in the house of the said defendants in their possession (they the said defendants so then being taylors and dealers in foreign embroidery, and gold and silver brocade) of certain other work made of silver, of silver wire and

Declaration upon 22. Geo. 2. c. 36. against importing and wearing foreign embroidery, &c.

2d Count.

3d Count.

and thread, called frogs, to wit, one parcel, &c. &c. al
every of which said several six parcels of work, called frogs
been before then wove, wrought, fabricated, and manufac
in foreign parts, and of foreign silver thread and wire, an
been before then brought and placed in the said house of th
defendants, and was then contained therein with the know
privity, and consent of the said defendants, against the for
&c. whereby and by force of, &c. the sum of six hundred po
to wit, one hundred pounds for each and every of the said su
cels of work, called frogs, so found and seized in their said
as aforesaid, by means whereof, and by force of, &c. an
hath accrued, &c.: And the said W. T. who sues as afor
further says, that the said defendants, on, &c. and long l
were, and from thence hitherto have been, and still are taylor
makers up of manufactures made of foreign gold and silver
and the trade and business of taylor and makers up of foreign
and silver lace have during all that time used and exercised, t
at, &c. and that after the making of, &c. and within three c
dar, &c. to wit, on, &c. at, &c. there were found and seiz
the house of the said defendants, and in their possession (the
said defendants so then being, &c.) one piece of, &c. one p
of, &c. all and every of which said pieces of, &c. had been t
then wove, &c. in foreign parts, and of foreign gold, and
wire and thread, and had been before then brought and p
in the house of the said defendants, and were and was then
fined therein with the knowledge of, &c. against the form of
whereby, and by force of, &c. the sum of three hundred po
to wit, one hundred, &c. &c. so found and seized in thei
house as aforesaid, and which had been before then brought, pl
and continued therein with their knowledge, &c. by means w
of, and by force, of, &c. an action hath accrued to, &c.;
&c.: [Common conclusion to *qui tam* declarations.]

Declaration on
12. Geo. 2. c.
16. for selling
books originally
printed in Eng-
land, and re-
printed and im-
ported from Ire-
land into Eng-
land.

MIDDLESEX, to wit. W. S. T. C. and D. P. wh
as well for our sovereign lord the king as for themselves in
behalf, complain against J. C. being, &c. of a plea that he
der to our said lord the king, and to the said plaintiffs, who
aforesaid, sixteen pounds, which he owes to and unjustly d
from them; for that certain books called Commentaries o
Laws of England, and consisting of four volumes, were orig
composed, printed, and published in this kingdom, to wit, at
in, &c.; yet the said defendant well knowing the premises
not regarding the statute in that case made and provided, ne
penalty therein contained, after the twenty-ninth day of Septe
1739, to wit, on, &c. at, &c. did sell one set of books
Commentaries on the Laws of England, consisting of four vol
the same being and purporting to be copies of the said bo
fold by the said defendant, then and there being of the val
thirty shillings, and having been reprinted out of this kingdo

the kingdom of Ireland, and from thence imported into
 dom for sale within twenty years after the same had been
 in this kingdom; and the said defendant then and there
 wing that the same had been reprinted out of this king-
 d imported into this kingdom as aforesaid, contrary to the
 &c. whereby an action hath accrued, &c. eight pounds
 to wit, the sum of five pounds, and double the value of
 s so sold by the said defendant as aforesaid, amounting to
 of three pounds, parcel of the said sum of sixteen pounds
 manded: And the said plaintiffs, who sue as aforesaid, fur- ad Count.

that a certain other book, called Blackstone's Commen-
 ras first written, printed, and published in this kingdom,
 at, &c.; yet the said defendant well knowing, &c. but
 rding, &c. nor fearing, &c. after, &c. to wit, on, &c.
 other book, called Blackstone's Commentaries, the same
 d purporting to be a copy of the said last-mentioned book
 ally written, &c. in this kingdom, the said last-men-
 ook so sold by the said defendant then and there being of
 : of other thirty shillings, and having been reprinted out
 ingdom, to wit, in the kingdom of Ireland, and imported
 kingdom for sale, contrary to the form of, &c.; and the
 ndant at the time of the sale of the said last-mentioned book
 y him as aforesaid, well knowing that the same had been
 l out of this kingdom for sale, contrary to the form of,
 reby and by force of, &c. [as in 1st Count]; yet, &c.:
 on conclusion.]

whereupon the said plaintiff, who prosecutes as well for Count on
 lord the king as for himself in this behalf, says, that the 10. Ann. c. 19.
 ndant being a parson in holy orders, after the twenty- f. 176. against
 ay of June 1712, to wit, on, &c. at, &c. did marry a parson for mar-
 o J. C. spinster, without publication of the banns of ma- rying two per-
 between them according to law, and without a licence sons without li-
 aid marriage first had and obtained from the proper ordi- cense or banns.
 that behalf, contrary to the form of, &c.; whereby and Vide 6. & 7.
 of, &c. an action hath accrued, &c.; yet, &c.: [Com- Will. 3. c. 6.
 clusion.] f. 52.

d B. complain of C. being, &c. in a plea that he ren- Declaration on
 em two hundred and twenty-nine pounds ten shillings of, 9. Geo. 1. a-
 ich he owes to and unjustly detains from them; for that gainst a custom-
 after the making of a certain act made at the parliament house officer not
 lord George the First, late king of Great Britain, &c. paying money
 at Westminster, in the county of Middlesex, on, &c. in on account of
 h year of his reign, entitled, "An Act for enabling his tobacco burnt.
 ly to put the Customs of Great Britain under the Ma-
 ment of one or more Commissioners, and for better secur-
 nd ascertaining the Duties on Tobacco, and to prevent

“ Frauds in exporting Tobacco, and other Goods and Merc
 “ dize, or carrying the same Coastwise,” and after the first d
 June 1723, in the said act mentioned, and during the continu
 of that act, and before the exhibiting the bill of the said plai
 to wit, on, &c. they the said plaintiffs imported from the B
 plantations, to wit, from Virginia, in America, into this k
 dom, to wit, into the port of W. in the said county of C. a
 tain large quantity of tobacco, to wit, one hundred and fifty l
 heads of tobacco, each and every hoghead thereof containi
 much greater quantity of tobacco than three hundred and
 pounds weight, to wit, eight hundred pounds weight of toba
 which said tobacco, and every part thereof, had been and then
 damaged tobacco, and had been and was damaged in the vo
 in the bringing thereof from Virginia aforesaid, to W. afore
 wherefore the said plaintiffs, the said importers thereof, on the
 importation thereof, to wit, on, &c. at, &c. in, &c, refuse
 enter the same, or to pay and cause to be paid the duties in rel
 thereof payable to our lord the now king on the said import
 thereof; and the said plaintiffs then and there, to wit, on,
 at, &c. gave notice to the said defendant of their said refusal,
 then was and from thence hitherto hath been and still is colle
 of the customs in and for the port of W. aforesaid, and the pr
 officer for payment of all bounties becoming and to become
 and payable on the importation and exportation of tobacco;
 the said plaintiffs then and there delivered up all the said tob
 to the said defendant to be there burnt and destroyed by his
 jesty’s officers of the customs as damaged tobacco, and the
 was then and there accordingly burnt and destroyed by the off
 of his majesty’s customs at the said port of W.; and the said p
 tiffs thereupon required the said defendant, so being the colle
 of his majesty’s customs at and for the said port of W. afore
 and so being the proper officers for the payment of all bounties
 coming and to become due or payable on the exportation and
 portation of tobacco at that port, to pay unto them the sai
 and B. the sum of thirty shillings for every hoghead of the
 one hundred and fifty-three hogheads of tobacco so by then
 said plaintiffs imported and refused as aforesaid, and so burnt
 destroyed as aforesaid; which said money the said defendan
 collector of his majesty’s customs in and for the said port of
 then and there ought to have paid to the said A. and B. accor
 to the form of, &c. to wit, at, &c. which said money, o
 part thereof, the said defendant did not then and there pay t
 said plaintiffs, or either of them, but then and there wholly re
 so to do; whereby and by force of, &c. an action hath,
 two hundred and twenty-nine pounds ten shillings above
 manded, being thirty shillings for each and every hoghead c
 said tobacco so by the said plaintiffs imported and refused as a
 said, and so burnt and destroyed as aforesaid; yet, &c.

THE inhabitants of the hundred of H. in the said county of S. were summoned to answer the clerk of the peace of the said county of S. in a plea that they render to him twenty pounds which they owe to and unjustly detain from him; for that whereas certain offenders to the said clerk of the peace wholly unknown, and the number of whom was and is to the said clerk of the peace unknown, after the fifteenth day of May 1735, and within six months next before the suing forth of the original writ of the said clerk of the peace, to wit, on, &c. in the twenty-third year of the reign of, &c. within the said hundred, to wit, in the parish of, &c. in the said county of S. within the said hundred, with force and arms, to wit, with pick-axes, hatchets, saws, spades, clubs, and knives did feloniously, wilfully, and maliciously pull down, cut down, knock down, throw down, level, and destroy a certain turnpike gate, and certain posts, rails, walls, and other fences, to wit, ten posts, &c. thereunto belonging; which said turnpike gate, rails, posts, walls, and other fences were before then there erected by authority of parliament, and were then standing and being in and across the king's highway in the said parish of B. within the said hundred, called road, leading from B. aforesaid, to a place commonly called, in the parish of Y. in the said county of S. to prevent passengers passing by and through the said turnpike gate in and along the said road, without paying certain tolls laid and directed to be paid by act of parliament, and were then and there so erected and set up for the use and service of collecting the said tolls at the place aforesaid, the same place being duly appointed for the purpose by and according to the act of parliament in such case made and provided, against the peace of our lord the now king, and to the damage of twenty pounds, and against the form of, &c. and one J. B. and one D. G. within the space of six days next before the said offence was so committed as aforesaid, and before the issuing of the said original writ, to wit, the said J. B. on, &c. and the said D. G. on, &c. in the twenty-third year aforesaid, at, &c. made information on their respective corporal oaths in this behalf, according to the form of, &c. before G. N. esquire, then still being one of the justices of our lord the now king, assigned to keep the peace of our said lord the king in and for the said county of S. and also to hear and determine divers trespasses, felonies, and other misdeeds committed in the said county, and then inhabiting in the county aforesaid, near the, to wit, in the parish of, &c. in the said county: And the said clerk of the peace further shewed, that the damages suffered by the said offence amounted to the said sum of twenty pounds, to wit, on, &c. in the twenty-third year aforesaid, at, &c. of all which premises the said inhabitants of the said hundred afterwards, to wit, on, &c. at, &c. had notice, and were then and there required to make full satisfaction for the damages so sustained as aforeaid; yet the inhabitants of the said hundred, although often requested, have not hitherto made any satisfaction or amends for the said damages so as aforeaid shewed, but have hitherto altogether refused, and still do refuse so to do, contrary to the form of, &c. whereby and by force of, &c.

Declaration by clerk of the peace against the inhabitants of an hundred for penalty in pulling down a turnpike gate, on 8. Geo. 2. c. 20. l. 6.

an

an action hath accrued to the said clerk of the peace to demand and have of the said inhabitants of the said hundred the said sum of twenty pounds above demanded, to wit, the value of the damages so suffered as aforesaid; yet the said inhabitants of the said hundred, although often requested, have not yet paid, &c.: Plea, *Nil debet*.

Declaration on
3. Geo. 2. c.
26. against de-
fendant for sell-
ing coals for a
particular sort,
when they were
of another and
different sort,
contrary to the
statute.

ad Count.

—— B. B. who sues in this behalf, as well for our sovereign lord the king as for himself, complains of R. W. W. W. and T. M. being, &c. in a plea that they render to our said lord the king, and the said plaintiff, who sues as aforesaid, two thousand pounds of, &c. which they owe to and unjustly detain from our said lord the king and the said B. B. who sues as aforesaid; for that whereas they the said defendants, after the making of a certain act of parliament, made at the parliament of our sovereign lord George the Second, late king of, &c. at a session thereof held at Westminster, in the said county of Middlesex, in the said year of his reign, entitled, "An Act for the better Regulation of the Coal Trade," and after the twenty-fourth day of June 1770, mentioned in that act, and within the space of six calendar months next before the commencement of this suit, to wit, on, &c. at, &c. in, &c. they the said defendants then and there being persons dealing in coals, did knowingly sell to one J. M. a certain parcel or quantity of coals, to wit, twenty chaldron of coals for and as a sort of coals which they really were not, that is to say, for and as a sort of coals called Pontop coals; but the same coals so sold as aforesaid were coals of another and different sort than coals of the said sort called Pontop coals, to wit, the coals of the sort called Tenth Moor coals; and when in truth and in fact they the said defendants, at the said time when they the said defendants so sold the said coals to the said J. M. as aforesaid, for and as coals of the said sort called Pontop coals, well knew that the said coals so sold by them as aforesaid, were not really coals of the sort called Pontop coals, but that the same was of another and different sort than the said sort of coals called Pontop coals, to wit, coals of the sort called Tenth Moor coals, against the form and true intent and meaning of the statute; whereby and by force of, &c. an action hath accrued, &c. five hundred pounds, parcel of the said two thousand pounds above demanded: And the said A. who sues as aforesaid, further says, that they the said defendants, after the making of the said act of parliament, after the twenty-fourth day of June 1730, mentioned in the said act, and within six calendar months next before the commencement of this suit, to wit, on, &c. at, &c. did knowingly sell to the said J. M. a certain other parcel of coals, to wit, twenty other chaldron of coals for and as a sort which they really were not, to wit, for and as a sort of coals called Pontop coals, though in truth and in fact the said coals so sold by the said defendants as last aforesaid were not really coals of the same sort called Pontop coals; but the same coals sold as last aforesaid were coals of another and different sort than coals of the sort called Pontop coals, to wit, of a sort called Tenth Moor coals

and when in truth and in fact they the said defendants at the said time when they the said defendants so sold the said last-mentioned twenty chaldron of coals to the said J. M. as and for coals of the sort called Pontop coals, then and there, to wit, at the said time of selling thereof as last aforesaid, at, &c. in, &c. well knew that the said coals so by them sold as last aforesaid were not really coals of the sort called Pontop coals, but that the same were coals of another and different sort than the said sort of coals called Pontop coals, to wit, coals of the said sort called Tenth Moor coals, against the form of, &c.; whereby and by force of, &c. &c.: And the said A. who, &c. further says, that the said defendants, after the making of the said act of parliament, and after, &c. and within, &c. to wit, on, &c. at, &c. they the said defendants being then and there dealers and sellers of coals, did then and there knowingly sell and deliver unto the said J. M. a certain other parcel of coals, to wit, twenty other chaldron of coals for and as a sort called Pontop coals, when in truth and in fact the said coals so sold and delivered by the said defendants as last aforesaid were not nor was any part thereof really coals of the said sort called Pontop coals, but the same coals so sold and delivered as last aforesaid, and every part thereof, were coals of another and different sort of coals than coals of the sort called Pontop coals; and when in truth and in fact they the said defendants, at the said time when they the said defendants so sold and delivered the said last-mentioned twenty chaldron of coals to the said J. M. as last aforesaid, as and for coals of the sort called Pontop coals, then and there, to wit, at the said time of the said selling and delivering thereof as last aforesaid, at, &c. in, &c. well knew that the said coals so by them sold and delivered as last aforesaid, were not, nor was any part thereof really coals of the sort called Pontop coals, but that the same and every part thereof then and there were and are coals of another and different sort than the said sort of coals called Pontop coals, against the form of, &c.; whereby, &c. &c. [there was another count]; yet, &c. &c.

3d Count.

—, to wit. A. who prosecutes in this behalf, as well, complains of B. being, &c. in a plea that he render unto our Lord the king and the said A. who as well, &c. twenty pounds of lawful money, &c. which he owes to them and unjustly detains from them; for that whereas by a certain act of parliament made and published at the parliament of our sovereign lady Ann, late Queen of Great Britain, &c. and holden at Westminster, in the county of Middlesex, on the twenty-third day of November, in the ninth year of her reign, entitled, “An Act to dissolve the present and prevent future Combinations of Coal Owners and Lightermen, Masters of Ships, and others to advance the price of Coals, in prejudice to the Navigation, Trade, and Manufactures of this Kingdom, and for the future encouragement of the Coal Trade;” and amongst other things for the encouragement of the said coal trade and for the preventing of frauds and abuses therein enacted by

Declaration on the 9th of Ann, c. 28. s. 2. against the master of a ship not registering his certificate within forty-eight hours after entering the ship at the custom-house.

by authority of the same parliament, that every filler or other person sending or delivering coals, or some or one of them, should give a full, true, and ample certificate or certificates to each and every ship master every voyage, signed by his or their hand-writing, containing the day of the month and year of such loading, the master and ships names, and the exact quantity of the usual names of the several and respective collieries out of which the said coals were brought should be wrought and gotten, and the price paid by the master or masters for each and every sort of coals that each and every filler or other persons sending or delivering coals as aforesaid, his or their agent or servant, had sold loaded on board, each and every ship or vessel, which said certificate or certificates should on the arrival of the said ship at the port of London, or any other delivering port be registered, if delivered in the port of London, at the Coquet office, always kept and appointed by the lord mayor for the time being, and if delivered at any other delivering port then at the custom-house with the keeper of the coquets there, for the registering thereof no more than sixpence should be paid, to which register any person or persons should or might have recourse to see and examine without fee or reward; and in case any person or persons should omit or refuse to give such certificate or certificates as aforesaid, or should give or make any false certificate or certificates, or any master or mistress of any ship or vessel, should knowingly cause any false certificate or certificates to be registered in manner aforesaid, or if the person or persons who ought to register, file, and enter such certificate or certificates, or his or their clerk or deputy officiating in such office or offices, should neglect to register the same for the space of twenty-four hours after the delivering such certificate or certificates into such office or offices, or should make false entry of such certificate or certificates, or refuse to shew or produce such certificate or certificates, and register thereof, to any person or persons coming at the usual office hours to inspect the same; every person so offending should for every such offence forfeit and pay the sum of ten pounds: And it was by the act of parliament further enacted, that all and singular the penalties and forfeitures in the said act mentioned should be one moiety to her majesty, her heirs and successors, the other moiety thereof to him or them who should sue for the same within the space of three months next after this offence should be committed, to be recovered with full costs of suit by action of bill, plaint, or information in any of her majesty's courts of record at Westminster, no essoin, protection, or wager of law should be allowed, or more than one imparlance given, as by the said act of parliament more fully appears: And whereas after the making of the said act of parliament, to wit, on, &c. and long before, and from thence continually until, and at, and after the time of the offence first hereinafter mentioned, being committed, the said B. was master of a ship called, &c. to wit, at, &c. and being so master thereof, one C. afterwards, to wit, on, &c. at, &c. sold and delivered to the said B. and loaded on board the said B.'s ship

a cargo of coals to be carried by him in his said ship in a voyage from N. aforesaid, to the port of L. aforesaid, and then and there gave to the said B. then master of the said ship, a full, true, and simple certificate signed by the said C. with his hand-writing, containing the day of the month and year of loading thereof, and the masters and ships names, and the exact quantity of the said coal so laden on board the said ship, and the usual name of the colliery out of which the said coals were wrought and gotten, and the price paid him by the said B. the master of the said ship for the said coals so sold and loaded on board the said ship, and the said ship so laden, afterwards, to wit, on, &c. set sail from N. aforesaid in and upon the said voyage, and afterwards, to wit, on, &c. in her said voyage arrived at the port of L. aforesaid, and the said B. afterwards, and within three months last past, before the exhibiting the said bill of the said A. to wit, on, &c. entered the said ship at the custom-house of London; yet the said B. well knowing the premises, but not regarding, &c. nor fearing, &c. did not within forty-eight hours after entry of his said ship at the said custom-house of London aforesaid, give in his said certificate to be registered at the Coquet-office then kept and appointed by the lord mayor of L. for the time being, which he ought to have done, according to the form and effect of the said act of parliament; whereby and by force of the said act of parliament, an action hath accrued to the said A. who as well, &c. to demand and have as well for the said lord the king as for himself of the said B. the sum of ten pounds by him forfeited for the said offence, parcel of the said twenty pounds above demanded: And whereas also, after the making the said act, to wit, on the fifteenth day of March 1737, ^{2d Count, more general.} long before thence continually, until, and at, and after the time of the offence first herein mentioned being committed, the said B. was master of another ship, called, &c. to wit, at London aforesaid, at, &c. and being so master thereof, the said ship, upon the said fifteenth day of March in the same year, arrived at the port of London aforesaid with a cargo of coals, bought and laden on board the same ship, and soon after the said arrival of the same ship, and within three months last past, before exhibiting the said bill of the said A. to wit, upon the same year last above-mentioned, the said B. entered his last-mentioned ship at the custom-house of L.; yet the said B. well knowing the premises, but not regarding the said statute, nor the penalty therein contained, did not within forty-eight hours after the entry of his said last-mentioned ship at the custom-house of L. aforesaid, give in his certificate or certificates from the seller or fillers, or other person or persons vending or delivering the said coals last above-mentioned to be registered at the Coquet-office then kept and appointed by the lord mayor of L. for the time being, which he ought to have done, according to the form and effect of the said act of parliament; whereby, &c.; yet, &c. &c.

—, to

Declaration on
23. Eliz. for not
repairing to
church to hear
divine service.

———, to wit. A. who sues and comes before the barons the exchequer, on the twelfth day of February this term, by attorney, and complains by bill against B. present here in court the same day, of a plea that he render to our said lord the now king and the said A. who sues as aforesaid, two hundred and twenty pounds of lawful, &c. which he owes to our said lord the king and the said A. who sues as aforesaid, and unjustly detain from them; for that the said B. for the space of eleven whole months next before the exhibiting of this bill, to wit, before the twelfth day of February, in the ninth year of the reign of our said lord the king (the said B. being all the said time, and long before being above the age of sixteen years, and an inhabitant within this kingdom, to wit, in the parish of Wigan, in the county of L. aforesaid), hath not repaired, or endeavoured himself to repair to the parish church of Wigan aforesaid, nor to any other church, chapel, or usual place of common prayer, but for all the time aforesaid, to wit, for the aforesaid whole space of eleven months, voluntarily and obstinately hath forborn the same (he the said B. having no lawful or reasonable excuse to be absent therefrom), against the form of the statute, &c.; whereby the said B. forfeited twenty pounds for every month of the aforesaid eleven months in which he the said B. did not repair to come to church, chapel, or usual place of common prayer as aforesaid, in the whole amounting to two hundred and twenty pounds, to be divided into three equal parts, to wit, one third part thereof for our said lord the now king to his own use, one other third part thereof for our said lord the now king for the relief of the poor of the said parish of W. in the county aforesaid, in which said parish the aforesaid offence was committed and one other third part thereof, being the residue thereof, for the said A. who sues as aforesaid, according to the form, &c. whereby an action hath accrued to our said lord the now king and the said A. who sues as aforesaid, to require and have of the said B. two hundred and twenty pounds; yet the said B. although often requested, hath not yet paid to the said A. the two hundred and twenty pounds, or any part thereof to the said lord the now king and the said A. who sues as aforesaid, or either of them, but to pay the same to them hitherto hath, and still doth wholly refuse to the said A. who sues as aforesaid, his damage of ten pounds, and therefore as well for the said lord the king as for himself he brings suit, &c.

Declaration on
2. Geo. 2. c. 23.
s. 23. against
defendant for
carrying on a
cause in the ex-
chequer cham-
ber, not being
admitted a so-
licitor,

To the Justices of our Sovereign Lord the King of the Bench.
———, to wit. A. E. by his attorney, complains of B. D. gentleman, one of the attornies of the common bench of our said lord the king, present here in court in his own proper person of a plea that he render to the said A. fifty pounds of lawful, &c. which he owes to him and unjustly detains; for that the said B. after the first day of December 1730, to wit, on the first day of July 1742, at Westminster, in the said county, did act as solicitor

in the court of equity in the exchequer chamber, at West-aforesaid, in a cause there depending between the said A. and C. defendant, on the part and behalf of and in the of the said C. for and in expectation of gain, fees, and re- whereas he the said B. at the time he so acted as a solicitor said, was not admitted nor inrolled a solicitor in the same pursuant to the statute, &c. contrary to the form and effect of that statute; by reason whereof and by force of that statute an action hath accrued to the said A. to demand and have of the said B. fifty pounds; nevertheless the said B. although often demanded hath not rendered, &c. to the damage, &c. and there- prays relief, &c.; yet, &c.

that the borough of Bridgnorth, in the county of Salop shire, on the twelfth day of November 1754, and long before, continually from that time hitherto hath been, and still is an borough, town corporate, and market town, and that the act not regarding the statute in this case made, nor the penalty contained, after the feast of St. Michael the Archangel to wit, on the third day of September 1743, at the borough aforesaid, the same last-mentioned day on which any open fair was held in the same borough, *the said B. not then or yet being in or out of the said borough, and not inhabiting or dwelling within the said borough or the liberties thereof**, did sell and retail cer- tain woollen ware, to wit, one yard and three quarters of a yard made of linen and cotton yarn, called linen and cotton of the value of two shillings and elevenpence, contrary to the statute, &c.; by reason whereof and according to the form of that statute the said B. hath forfeited six shillings and eightpence, whereby an action hath accrued to our said lord the king the said A. who sues as aforesaid, to demand and have of the said B. the said six shillings and eightpence, parcel of the said penalty: And the said A. and C. who sue as aforesaid further pray, that the said B. not regarding the said statute, &c. be adjudged to pay to the said A. and C. Two other Counts for causing to be sold, &c. Two other Counts for causing to be sold haberdashery wares, and twenty shillings for linen cloth.]

These words seem proper to be inserted, and were inserted in a justification of the statute by Mr. Ford.

to wit. T. Messey, who as well for the poor of the parish of St. N. in the same city as for himself, complains of R. T. &c. of a plea that he render to the said poor of the said parish the said T. who sues as aforesaid, twelve pounds of money, which he owes to the said poor and the said T. who aforesaid, and unjustly detains; for this, that the said R. T. is a hawker and trading person going from town to town, and carrying

Declaration on 1. and 2. P. and M. c. 7. against defendant not being a freeman of or residing in a borough, or the liberties thereof, for selling goods by retail on other days than when an open fair was held.

Declaration on 9. and 10. Wm. 3. against hawkers and pedlars.

&c.—HAWKERS AND PEDLARS.

and exposing to sale linen cloth other than the
his kingdom, to wit, linen cloth of the manufac-
lorn of Ireland, *after the twenty-third day of June*
e the exhibiting the said bill of the said T. who
to wit, on the seventh of March 1742, at the said
was found trading as such hawker as aforesaid, and
so being such hawker as aforesaid, then and
sale a certain piece of linen cloth of the man-
ngdom of Ireland, without having any licence to
Robert so to do, contrary to the form of the sta-
tute, &c. by reason whereof an action hath accrued to the said poor
and the said T. who sues as aforesaid, to demand and have of the
said R. the said twelve pounds; nevertheless the said R. although
often requested, hath not paid to the said poor and the said T. who
sues as aforesaid, the said twelve pounds or any part thereof, but
the said R. to pay the same to the said poor and the said T. who
sues as aforesaid, hath hitherto altogether refused, and yet doth re-
fuse, whereupon the said T. who sues as aforesaid, says that he is
injured, and hath damage to the value of five pounds; and there-
fore as well for the said poor as for himself he brings suit, &c.; yet,
&c.

Declaration a-
gainst the de-
fendant for not
taking the oaths
and qualifying,
agreeable to H.
28. G. 2. ch.
20.

SUFFOLK, to wit. A. B. late of, &c. was summoned to answer
to the poor of the said parish, &c. and to C. D. who sueth in that
behalf as well for the poor of the said, &c. of a plea that he render
to the said poor and the said C. D. who sues as aforesaid, one
hundred pounds, &c. which he oweth to and unjustly detains from
them, &c.; and whereupon the said C. D. who sues as aforesaid, by
A. B. his attorney, saith, that the said John Ord not regarding the
statute in such case made and provided, nor fearing the penalties
therein contained, after the twenty-fifth day of March, which was
in the year of Our Lord 1746, and within six months next
before the suing out the original writ of the said Thomas,
who sues as aforesaid, to wit, on the fifteenth day of June, in the
year of Our Lord 1780, within that part of Great Britain called
England, to wit, in the parish of, in the said county of Suffolk,
took upon himself to act and did act as a justice of the peace for
the said county of Suffolk: And the said Thomas, who sues as
aforesaid, further saith, that the said John Ord did not at any time
before he so acted as justice of the peace as aforesaid, at any gene-
ral or quarter sessions of the peace holden in and for the said coun-
ty of Suffolk, take and subscribe the oath ordered and enacted by
the statute made in the eighteenth year of the reign of our late so-
vereign king George the Second, intituled, "An Act to amend and
"render more effectual an Act passed in the Fifth Year of his pre-
"sent Majesty's reign, intituled, An Act for the further Qualifica-
"tion of Justice of the Peace, to be taken and subscribed by Persons
"before they take upon themselves to act as Justices of the Peace;"
whereby and by force of the said statute the said John Ord hath
for-

to the poor of the said parish of Torncham Saint Genovive, which said parish the said John Ord usually resides, and to any other persons who should sue for the same, the sum of one hundred pounds; whereby and by force of the said statute an action accrued to the said Thomas, who sues as aforesaid, to demand of and from the said John Ord for his said offence on behalf of the said parish and for himself the said Thomas, as aforesaid, the said sum of one hundred pounds above said; yet the said John Ord, although often requested, hath refused to pay the said one hundred pounds or any part thereof to the said Torncham Saint Genovive, and the said Thomas, who sues as aforesaid, or to either of them, but to pay he the said John Ord hitherto wholly refused and still doth refuse, to the damage of the said Thomas, who sues as aforesaid, of twenty pounds; and the said Thomas, as well for the said poor as himself, brings

an action is an amicable action to which no other action being brought, and secrecy must be observed in which would the other action be brought and defendant plead the action as a bar to it, and in case of which the defendant should plead a former request against him for the same cause,

and the plaintiff in that action should reply, that their action was brought by fraud and covin, in order to defeat a real prosecution, and such matter then be found against defendant, he will not only be liable to the penalty, but to suffer two years' imprisonment.

WODBRIDGE, late of, &c. gentleman, was summoned by **J. B.** esquire, chamberlain of the city of London, in which he render unto the said **J. B.** fifty pounds, which he and unjustly detains from him; whereupon the said **J. B.** sues, complains for this, to wit, that whereas in and by an Act made in a parliament of the lady Anne, late queen of Great Britain, holden at Westminster, in the county of Middlesex, on the twenty-third day of October, in the sixth year of her said Majesty, was amongst other things enacted by the authority of the said parliament, that from and after the termination of the then parliament all persons that should act as brokers within the city of London and liberties thereof should from that time be so to do by the court of the mayor and aldermen of the said city for the time being, under such restrictions and limitations of good behaviour as that court should think fit and reasonable; and it was further enacted by the said act, that if any persons from and after the determination of the then parliament should take upon him to act as a broker, or any under him as such within the said city and liberties, not being admitted as aforesaid, every such person so offending should forfeit and pay to the mayor and commonalty and citizens of the said city for every such offence the sum of twenty-five pounds to be recovered by action of debt in the name of the mayor and commonalty of the said city (of the said city) in any court of record (of the said city): And the said **J. B.** in fact saith, that after the

VII. **R** **deter-**

Declaration on the 6th of Anne, for acting as a broker within the city of London, not being admitted by the court of the mayor and aldermen to act as such.

determination of the said session of parliament, to wit, c
 A. D. 1740, he the said J. B. was, and ever since hath bee
 now is chamberlain of the city of London; and that t
 J. W. afterwards, to wit, on, &c. within the said city of
 don, at, &c. did take upon him to act as a broker, to wit, i
 ing a bargain and contract between S. C. of, &c. of the on
 and T. P. of, &c. of the other part, for a reward then to be
 him the said J. W. contrary to the form and effect of the f
 he the said J. W. then or at any time before or since, not bei
 mitted by the said court of mayor and aldermen of the
 London to be a broker, or to act as a broker within the said
 London and liberties thereof, by which an action hath accr
 the said J. B. to demand and have of the said J. W. twen
 pounds, parcel of the said sum of fifty pounds above dem
And the said J. B. further saith, that afterwards, to wit, o
 within the said city of L. to wit, at, &c. he the said J. W. d
 ther take upon him to act as a broker, and did act as a bro
 other contracts between merchant and merchant, and mer
 and others for reward then to be had by him the said J. W
 trary to the form and effect of the said act, he the said J. W
 or at any time before or since, not being admitted by the said
 of mayor and aldermen of the said city to be a broker within t
 city of L. and liberties thereof, by which an action hath a
 to the said J. B. to demand and have of the said J. W. the
 other twenty-five pounds, residue of the said sum of fifty p
 above demanded; yet, &c.

Declaration for
 starting a run-
 ning mare for a
 less sum than
 fifty pounds.

WILTSHIRE, to wit. Paul Austin, who sues as w
 himself as for the poor of the parish of W. complains a
 J. R. being, &c. of a plea that he render to the poor of t
 rish aforesaid, and to the said Paul, who sues as aforesaid, t
 of four hundred pounds, which he owes to and unjustly c
 from them; for that whereas the said J. R. not regarding t
 tute in, &c. or fearing, &c. after the twenty-fourth day of
 1740, to wit, on, &c. within the kingdom of England an
 where than in the county of Somerset, to wit, in the said
 of W. in the said county of W. *did start and run a certai*
ing of the said J. R. for a certain price or sum of money
 value than fifty pounds, to wit, for the sum of ten pounds,
 the form of, &c.; whereby and by force of, &c. he the saic
 hath forfeited to the poor of the said parish of W. (in which
 rish the said offence was committed) and to such person or
 who should sue for the same, the sum of two hundred pounds;
 by and by force of, &c. an action hath accrued, &c. &c.
 the said Paul, who sues as aforesaid, further saith, that t
 J. R. further disregarding the statute in that case made an
 vided, and the penalty therein contained, afterwards, and af
 twenty-fourth day of June [Like the first Count, only “*dia*

instead of "*did start and run*];" yet, &c. (Common conclusion in *qui tam* actions.)

The reason why the county of Somerset is mentioned, because the hundred gives in that county one moiety to the

king, and the other to the maintenance of the infirmary of Bath, and nothing to the informer.

Wednesday next, after three weeks from the day of Easter, in Easter Term, nineteenth Year of King George the Second.

MIDDLESEX, to wit. P. Higham, gentleman, was attached by his present majesty's writ of privilege issuing out of this court, to answer to E. Betts, gentleman, one of the attornies of said present majesty's court here, according to the liberties and privileges of the same, for such attorney and other officers of the bench out of mind used and approved of in the same, in a plea that the said plaintiff render to him the said E. four hundred and eighty-seven pounds ten shillings which he owes to him and unjustly claims from him, &c.; for that whereas the said E. on the twentieth day of October, in the term of St. Michael, in the nineteenth year of the reign of our said lord the king, in the said court of the said lord the king of the bench here, to wit, at W. in the county aforesaid, by bill impleaded, A. H. gentleman, then being one of the attornies of the said court of the said lord the king of the bench here in his proper person, in a plea that he the said A. then owed to the said E. and unjustly detained, &c.: For that whereas the said A. on the sixteenth day of October, in the eighteenth year of the reign of his present majesty, at Westminster, in the said county of Middlesex, by his certain writing-obligatory acknowledged himself to be bound to the said E. in the said one thousand four hundred pounds, to be paid to the said E. when he should thereunto be afterwards requested; nevertheless the said A. though often requested, the said one thousand four hundred pounds to the said E. had not then paid, but the same to him to altogether refused, and then and still refused, whereupon the said E. said that he was injured, and had damage to the value of four hundred pounds, and thereupon he prayed relief, &c.; and he then brought into court the writings-obligatory aforesaid, which testified that aforesaid in form aforesaid, the date whereof was the same year last aforesaid: And the said A. in his own proper person came and defended the wrong and injury, when, &c. and that he ought not to be charged with the said debt by virtue of the said writings-obligatory, because he said that the said writings-obligatory were not his deed; and of that he put himself upon the issue; and the said E. did so likewise; and thereupon such proceedings were had in the said court here, that a jury of the county of Middlesex therefore respited between the said E. and A. before the court of his said majesty here, to wit, at Westminster aforesaid, on Thursday next after the morrow of the Purification of the Virgin Mary then next following, unless Sir John Willes,

Writ of privilege by an attorney, for not attending to give evidence on a trial at *nisi prius*, after being served with a subpoena.

Declaration set forth.

Plea set forth,

Took out subpoena.

Subpoena sent to the witness.

Offered his charges.

Refused by defendant.

Trial came on.

Defendant never appeared.

knight, chief justice of his said majesty's court of the common bench here appointed to try and determine causes by force of the statute in such case made and provided, on Friday the thirty-first day of January, at Westminster aforesaid, in the great hall of pleas commonly called Westminster-Hall, should come there before for default of jurors because none came; whereupon the said E. Betts, before the said Friday, to wit, the thirty-first day of January, to wit, the twenty-eighth day of November, in the ninth year aforesaid, prosecuted out of his said majesty's court of King's Bench here, to wit, at Westminster aforesaid, a certain writ of his said majesty's called a subpoena, directed to the said P. Higham and one A. R. gentleman, by which they were, and every of them was commanded that all other things set aside and ceasing every excuse, they and every of them should be and appear in their proper persons before the said Sir J. W. knight, &c. on the Friday, the thirty-first day of January then next ensuing, at Westminster Hall, to testify the truth according to their knowledge in the said action then in his majesty's court before his justices at Westminster depending, between the said E. Betts, plaintiff, and the said A. R. defendant, of the plea of debt aforesaid, and at the aforesaid day by a jury of the country between the parties aforesaid of a plea aforesaid to be tried, and they or any of them should in nowise omit, under the penalties of every of them one hundred pounds, which said writs of the said E. B. afterwards, and before the said thirty-first day of January, to wit, on the twentieth day of the same month of January, at Sudbury in the county of Suffolk, the place where the said P. H. then dwelt, caused to be made known and shewn to the said P. H. and caused then to be left at S. aforesaid with the said P. H. a note in writing of the said day and place of appearance of the said P. H. according to the exigency of that writ, to certify as aforesaid, and then and there tendered and offered to the said P. H. to pay him, and was then and there ready and willing to pay to the said P. H. the sum of six guineas of, &c. being a reasonable sum for his costs and charges in this behalf, which said sum of six guineas he the said P. H. then and there refused to accept: And the said E. in fact says, that afterwards, on the day and place abovementioned in that respect came the said Sir J. W. knight, chief justice of his said majesty of the said bench here appointed by form of the statute, &c. ready to try the said issue, and as well the said E. B. by his attorney aforesaid, as also the said A. R. in his proper person then and there came and the jurors of the said jury impannelled and drawn by ballot according to the form of the statute, &c. called over, and then as there likewise came, who being tried and sworn to speak the truth of the said matter in question, nevertheless the said P. H. not in the least regarding the statute, &c. nor the penalty therein contained, although then and there solemnly called for that purpose did not appear before the said Sir J. W. knight, his said majesty chief justice of the said bench of Westminster aforesaid, in the great hall of pleas there, to give his testimony in the said case

trial, although the said P. H. had no lawful or reasonable impediment to the contrary, but neglected so to do, in pt of the said statute, and by reason of the said neglect of P. H. in that respect, and because the evidence he could ren for the said E. B. would have been material, and was y for the said E. B. to prove and maintain his said recited ion, and the matter therein contained, and the issue above on the part of the said E. for want of the said testimony of P. H. could not safely take and abide by the verdict of the y on the said issue so joined as aforesaid; but the jury having wn from the bar of the said court to consult on the verdict ren on the premises in the issue as aforesaid, and having con- ad agreed amongst them to give in their verdict, and for pose being come back again to the bar of the said court, uid E. B. although solemnly called, came not into the said gain, nor did he further prosecute his suit against the said A. ; ewpon afterwards, to wit, on Wednesday next after fifteen n the day of Easter in this same term, it was considered in he same court of his said majesty of C. B. here, to wit, at nster aforesaid, that the said E. B. should take nothing by ill, but the said E. B. and his pledges of prosecuting should eef in mercy, &c. (enquire the names of the pledges, id that the said A. should go without day; it was also con- hat the said A. R. should recover against the said E. his da- y reason of the premises, to wit, seven pounds ten shil- t the direction of the same court here adjudged to the said t request for his costs by him in this behalf sustained, ac- to the form, &c. as by the record and proceedings aforesaid ig in the same court here, to wit, at Westminster , manifestly appear: And the said E. R. in fact says, that uid E. B. afterwards, to wit, on the twenty-ninth day of a the nineteenth year aforesaid, at Westminster aforesaid, he said A. the said seven pounds ten shillings so recovered um as aforesaid to avoid the execution of the said writ, and he said E. B. laid out and expended in and about the pro- of his said recited suit, a large sum of money, to wit, the wenty pounds, &c. to wit, at Westminster aforesaid, and the said E. B. sustained damages over and above those se- as of money by reason of the said P. H. not appearing at after aforesaid, to wit, in the great hall of pleas there as a or the said E. B. as aforesaid, to the value of one thousand ured pounds of, &c. to wit, at Westminster aforesaid, id damage of the said E. B. amounts in the whole to one four hundred and twenty-seven pounds ten shillings; by hereof, and also by force of the said statute, &c. an action ried to the said E. to have and demand of the said P. H. of ten pounds by him forfeited for his said offence by he said statute, and also his said damages, amounting in to one thousand four hundred and thirty-seven pounds ten ; yet the said P. H. although often requested, hath not yet

His evidence would have been material.

Obliged to be non-prossed.

Expended twenty pounds in his suit besides;

and lost by defendant, not appearing as evidence, one thousand four hundred pounds.

saïd A. to pay to the saïd B. and the saïd B. did then and there extorsively receive and take from the saïd A. one other halfpenny, for permitting and suffering to send for and have to his own use one quart of ale, contrary to the form of the statute, &c. whereby and by force, &c. an action hath accrued to the saïd A. to require and have of the saïd B. other fifty pounds, other parcel of the saïd one hundred and fifty pounds: And the saïd A. further saith, that afterwards, to wit, on the same day and year aforesaid, at C. aforesaid, the saïd B. so being goaler of the saïd goal, and the saïd A. so being a prisoner committed to his custody, under an arrest, in the saïd goal as aforesaid, he the saïd B. did require and enforce the saïd A. to pay to the saïd B. and the saïd B. did then and there extorsively take and receive from the saïd A. a large sum of money, to wit, the sum of five pounds, for permitting and suffering the saïd A. to have and use in the saïd goal certain bedding of the saïd A. contrary to the form, &c. whereby, &c. an action hath accrued to the saïd A. to demand and have of the saïd B. other fifty pounds, residue of the saïd one hundred and fifty pounds; nevertheless the saïd B. although often requested the saïd one hundred and fifty pounds, to the saïd A. hath not rendered, but the same to him to render hath hitherto altogether refused, and yet doth refuse; wherefore the saïd A. saith that he is injured, and hath damage to the value of twenty pounds, and therefore he brings suit.

3d Count.

FOR that the defendant not regarding the statute in such case made and provided, nor fearing the penalties therein contained, after the twelfth day of November 1694, to wit, on the fourth day of May, in the year, &c. at, &c. did unlawfully write, or cause to be written upon a piece of paper, a certificate of marriage, signed by him the saïd defendant, purporting that M. W. and J. L. were married on the saïd fourth day of May, in the saïd year 1737, for which saïd certificate so written on the saïd piece of paper, a duty of five shillings then was payable to the saïd now the king, and the saïd piece of paper at or before the time of the saïd certificate being so written and made thereon, not being taxed or stamped, according to the direction of the statute in such cases lately made and provided, with a mark or stamp denoting the payment of the saïd duty, nor having therein any mark or thing resembling the same, contrary to the form, &c. whereby, and by force, &c. an action hath accrued, &c.

Against a person for granting certificates of marriage upon paper unstamped.

This action must be brought in the name of an informer, who as well, &c.

BORNWALL, to wit. B. late, of, &c. was summoned to appear to A. of a plea that he render to him twenty pounds of money, &c. which he owes to and unjustly detains from him, &c. whereupon the saïd A. by his attorney, says, that the saïd B. two years next before the suing forth of the original writ of habeas corpus, to wit, at the court of record of our now sovereign

On 16. Cha. 1. c. 15. for prosecuting plaintiff in the stannary court, when in fact he was not a tinner.

lord the king, of the stannary of _____ in the said county of C held for the said stannary, at _____, within the said stannary, and the county of C. aforesaid, on the twenty-eighth day of March, in the eleventh year of the reign of the said lord the king, before R. Hussy, gentleman, the steward of the said court, sued, prosecuted, and impleaded the said A. in the said court, in a certain plea of trespass upon the case: And the said A. further saith, that he the said B. at the time of the said suit commenced against him, or within half a year then last past, was not in truth and without fraud a working or labouring tinner, in or about any tin work which had been set on work within one half year next before the commencement of the said suit; and that he the said A. at the time of the said commencing the said suit was not a tinner, contrary to the form of, &c. by reason whereof, and by force of, &c. an action hath accrued, &c. ten pounds, parcel of the said twenty pounds above demanded: And whereas he the said B. afterwards, and within one year next before the suing out the original writ of the said A. to wit, at the court of record of the said lord the king, of the stannary of _____ aforesaid, held for the said stannary at _____ aforesaid, within the said stannary, and in the county aforesaid, on, &c. in the said eleventh year of, &c. before the said R. H. gentleman, then steward of the said court, levied his plaint in the same court against one R. P. and the said A. of another trespass upon the case, and then and there at the same court sued process out of the said court against the said A. upon the said plaint to take and arrest the said A. by his body, to answer to the said B. in the plea last aforesaid, under colour whereof he the said B. afterwards, and before the return of the said process, to wit, on, &c. at, &c. in, &c. and within the jurisdiction of the stannary aforesaid, caused and procured the said A. to be taken and arrested by his body, and kept and detained him in custody under colour of the same process at the suit of the said B. for the cause aforesaid for a long space of time, to wit, for the space of six hours: And the said A. further saith, that he the said B. at the said time of the levying of the said plaint last above mentioned, or within half year last past, was not in truth and without fraud working as labouring tinner in and about any tin work which had been set on foot within one half year next before the levying of the said plaint of the said B. against the said A. in manner and form as last aforesaid, and that the said A. at the said time of levying the said plaint was not a tinner, contrary to the form of, &c. whereby, &c. other ten pounds, residue of the said twenty pounds above demanded yet, &c. &c.

Declaration on _____, to wit. A. who sues in this behalf as well for or 34. & 35. H. sovereign lord the king as for himself, complains against B. being 8. c. 7. f. 6. &c. in a plea that he render to our said lord the king, and the said A. who sues as aforesaid, five pounds of, &c. which he owes for throwing ballast overboard and unjustly detains from them; for this, that the said B. not re- into the harbour of Pool. gardin

garding, &c. nor fearing, &c. after the first day of August 1543, to wit, on, &c. at, &c. did unlawfully cast and unload out of a ship, called, &c. whereof the said A. was then master, the said ship then being within the channel of the river S. and the said river long before flowing and running to the town and county of P. within this realm, a great quantity of ballast, to wit, five hundred boat loads of ballast into the channel of the said river, and below the full sea mark there, contrary to the form of, &c.; by reason whereof, and by force of, &c. the said B. hath forfeited five pounds, one moiety thereof to the said lord the king, and the other moiety thereof to the said A. who sues as aforesaid; whereby and by force of, &c. an action hath accrued, &c. &c.; yet, &c. &c.

—, to wit. A. who sues in this behalf as well for our Declaration on behalf of the sovereign lord the king as for himself, complains of B. being, 4. Geo. 2. c. 39. in a plea that he render to our said lord the king, and the said A. who sues as aforesaid, two hundred pounds of, &c. which he against the master of a ship for not keeping his turn in selling coals. was to and unjustly detains from them; for that whereas the said B. after the fifteenth day of May 1731, and within six months last past, before the exhibiting the bill of the said A. who sues as aforesaid in this behalf, to wit, at, &c. was master of a certain ship or vessel called C. then used and employed in the coal trade, and then lying in the river Thames, at London aforesaid, laden with coals to be sold and delivered in the said river there, and the said B. being so master thereof, he the said B. not regarding, &c. nor fearing, &c. afterwards, to wit, on, &c. at, &c. did unlawfully not keep turn in selling and delivering the said coals in the said river Thames there, contrary to the form of, &c. by reason whereof the said B. by force of the said statute hath forfeited the sum of one hundred pounds for the said offence, one moiety thereof to the said lord the king, and the other moiety thereof to the said A. who sues as aforesaid, with treble costs of suit, whereby and by force of, &c. an action hath accrued, &c. 2d Count. It is: (a) And whereas also the said B. after the said fifteenth day of May 1731, and within six, &c. to wit, on, &c. at, &c. in, &c. was master of another ship or vessel called C. then used and employed in the coal trade, and then lying in the said river of Thames, at L. aforesaid, laden with coals to be sold and delivered in the said river there, amongst divers other ships and vessels then lying in the said river there, likewise laden with coals to be sold and delivered in the same river there, and that a certain ship or vessel called E. laden with coals, whereof O. P. then was master, then lying in the same river there, first in turn for the said therein laden to be sold and delivered there: And that the said ship or vessel of the said B. last above-mentioned, called E.

It is: (a) If this Count should not be the case in selling coals, and that the second ship in turn is obliged to sell so as to shew what keeping in turn is.

laden

laden with coals as aforesaid, then lay in the said river there second in turn for the coals therein laden to be sold and delivered there, and the said then master of the said ship or vessel called C. then and there exposed to sale, and then offered to one Q. X. to sell and deliver to him in the said river there the coals then laden on board his said ship or vessel as aforesaid, at the rate and price of shillings by the chaldron, and thereupon the said Q. X. was then and there ready to buy, and then and there offered to the said B. to buy of him the said B. the said coals so laden on board the said ship of the said B. last above mentioned in the said river there at the same price, and then and there requested the said B. to sell him the said coals in the said B's said ship, at the price of by the chaldron, and then and there gave notice to the said B. that the said then and there exposed to sale, and offered to the said Q. X. to sell him his said coals at the said price of by the chaldron; yet the said B. well knowing the premises, but not regarding the said statute, nor fearing the penalty therein contained, but devising and unlawfully intending to enhance the price of coals in the said river of T. by the not keeping of turn and selling and delivering coals there, contrary to the form of, &c. to the prejudice of the manufacturers of this realm, and to the oppression of the poor of this realm, he the said B. then and there while his said last-mentioned ship was second in turn as aforesaid, and after the said notice given him as aforesaid, unlawfully refused to sell the said coals so laden on board his said last ship to the said Q. X. at the rate and price of by the chaldron, but then and there unlawfully insisted to have of the said Q. X. for his said coals on sale thereof to him a much larger rate and price, to wit, the price of by the chaldron: And the said A. who sues as aforesaid, further saith, that the said while his ship was first in turn as aforesaid, and while the said last ship of the said B. was second in turn as aforesaid, and after the refusal of the said B. to wit, on, &c. in the said river, there sold and delivered (a) his said coals so laden on board his said ship at the price of by the chaldron, and thereby the said last ship of the said B. then and there became and was first in turn for the selling and delivering the said coals so then in the said river of T. there, and so being first in turn, he the said B. afterwards, to wit, on, &c. in the said river there sold and delivered his said coals so laden on board his said ship as aforesaid, at the said rate or price of by the chaldron, for which the said sold his said coals, when his the said ship was first in turn as aforesaid, and which price the said B. had before refused when the said ship was second in turn as aforesaid, to the great damage and unlawful endeavour of the said B. of enhancing the price of coals in the river T. by keeping of turn in selling and delivering coals there, to the great prejudice of the manufacturers and oppression of the poor of this realm, and contrary to the form of, &c.; by reason whereof, &c. one moiety thereof to, &c. &c. residue of the said sum of one hundred pounds above demanded; yet, &c.

(a) Qu. If it should be said *all* his coals.

—, to wit,

—, to wit. A. who prosecutes as well for our sovereign On 9. & 10.
 e king as for himself in this behalf, complains of B. being, W. 3. against a
 a plea that he render to the said lord the king, and the said watchmaker,
 as well, &c. of lawful, &c. which he owes to our said for engraving a-
 king, and to the said A. who as well, &c. and unjustly nother person's
 from them, and also two watches, which from the said name on the
 king, and the said A. who as well, &c. he unjustly de- dial plate of a
 &c. ; for that the said B. after the twenty-fourth day of watch.
 598, to wit, on the day of , in the year of Our
 , at L. aforesaid, to wit, at the parish, &c. did make
 cause to be made up a watch without engraving or putting
 ng to be engraven or put his own name or place of abode
 om on the said watch ; but that he the said B. did then and
 rgrave and put on the said watch another name, to wit, the
 M. (the said name of M. not being then the said B's own
 contrary to the form, &c. whereby and by force of the
 ite an action hath accrued to the said A. who as well, &c. to
 and have for the said lord the king and himself the said one
), part of the said watches, and also twenty pounds, part
 above demanded : And the said A. who as well, &c.
 lays, that the said B. after the twenty-fourth day of June
 o wit, on the day of in the year of Our Lord
 t, &c. made up, &c. caused to be made up another watch
 engraving or putting and causing to be engraved and put
 name and place of abode or freedom on the said last men-
 watch ; but that the said B. did then and there engrave and
 the said last-mentioned watch another name, to wit, the
 Markham on the same last-mentioned watch (the said
 M. not being the said B's own name), contrary to the
 the statute ; whereby and by force, &c. an action hath
 to the said A. who as well, &c. to demand and have of
 B. for the said lord the king and himself, another sum of
 ounds, other part of the said above demanded, and
 watch last-mentioned ; yet the said B. although often re-
 hath not yet rendered to the said lord the king, and the
 who as well, &c. the said two watches, nor the said
 hitherto altogether refused, and still doth refuse to render
 to the said lord the king, and the said A. who as well,
 he damage of the said A. who as well, &c. of one hun-
 nds, and therefore as well for our said lord the king as for
 he brings this suit, &c. ; yet, &c.

—, to wit. A. who sues as well for our lord the king as On 1. Ann. c.
 elf in this behalf, complains of B. being, &c. in a plea 22. for scratch-
 render to our said lord the king, and the said A. who as ing out the
 : eighty pounds, which he owes to and unjustly detains names in an old
 m ; for this, that the said B. not regarding the statutes in indenture of ap-
 es lately made and provided, nor fearing the penalties prenticeship and
 contained, after the twenty-fifth day of March 1703, to inserting other
 names, intend-
 ing thereby to
 avoid the stamp
 Wit, duties.

(a) Qu. If this is not better omitted.

3d Count.

wit, on the nineteenth day of October, 1732, at W. in the count of Middlesex aforesaid, wrote and engrossed and caused to be written and engrossed upon a piece of parchment, part of a writing to wit, William Stone, son of John Stone, of Marlborough, and also upon the same piece of parchment other part of a writing, to wit, William Wheeler, of the parish of St. Mary, in Marlborough; the same writing purporting to be that the said W. S. put himself apprentice to the said W. W. for six years, in respect of which said parts of the said writing so written and engrossed by the said B. as aforesaid, several duties were then payable to the said now lord the king, by force, &c. which said parts of the said writing so written and engrossed by the said B. as aforesaid, were so written and engrossed before the said piece of parchment was again marked or stamped according to the statute, &c. by reason whereof the said B. by force, &c. hath forfeited for his said offence the sum of twenty pounds; one moiety thereof to the said lord the king, and the other moiety thereof to the said A. who as well, &c. to demand and have for the said lord the king and for himself the said twenty pounds, parcel of the said eighty pounds above demanded: And the said A. who as well, &c. further saith, that the said B. not regarding the statute, &c. nor fearing the penalties therein contained, after the twenty-fifth day of March 1703, to wit, on the nineteenth day of October 1732, at W. aforesaid, fraudulently erased and scraped out, and caused to be erased and scraped out the dates and names of the persons written in another writing, purporting to be an indenture of apprenticeship, in respect whereof several duties were payable to the said now lord the king by force of the statutes in such case made and provided, contrary to the form, &c. by reason whereof, the said B. by force of the statute in such cases lately made and provided, hath forfeited another sum of twenty pounds; one moiety thereof to the said now lord the king, and the other moiety thereof to the said A. who as well, &c.; whereby and by force of the said statute an action hath accrued to the said A. who as well, &c. to demand and have as well for the said lord the king as for himself of the said B. the said twenty pounds last above mentioned, other parcel of the said eighty pounds above demanded; (these were the same as these above); yet, &c.

On 3. Geo. 2.
c. 26. for regu-
lating the coal
trade, defraud-
ing the buyers
in the allow-
ance of the in-
grain.

—, to wit. A. who prosecutes in this behalf as well, &c. complains of B. being, &c. of a plea that he render to our said lord the king and the said A. who as well, &c. two hundred pounds of lawful, &c. which he owes to our said lord the king and the said A. who as well, &c. and unjustly detains; for this, that the said B. after the twenty-fourth day of June 1730, and within six months now last past, to wit, on the twenty-seventh day of November 1736, at L. aforesaid, and in the said parish, &c. (he the said B. then and there being a dealer in coals) sold to A. B. parcel or quantity, to wit, a score of coals as and for pool mea-
sure

sure, to wit, such measure as is or then was usually given or allowed in the pool or river Thames, including the ingrain, but the said B. not regarding the statute, &c. nor fearing the penalties herein contained, did not justly and without fraud deliver to the said A. and the buyers thereof the full quantity of the coals so sold them and measured from on board ship to the said B. by the meter, together with the said ingrain thereof, which he ought to have done according to, &c. ; but the said B. afterwards, to wit, on the twenty-seventh of November 1736, at London, &c. unjustly and fraudulently delivered to the said A. and the buyers thereof, only part, to wit, nineteen chaldrons and a half of the coals so sold to them as aforesaid, and accordingly measured from on board ship to the said B. by the meter, without the ingrain thereof, contrary to the form, &c.: whereby and by force of the said statute an action hath accrued to the said A. who as well, &c. demand and have as well for our lord the king as for himself of the said B. the sum of one hundred pounds by him forfeited for the said offence, part of the said two hundred pounds above demanded: and the said A. who sues as aforesaid further saith, that the said B. after the first day of August 1730, and within six months now past, to wit, on, &c. at, &c. (he the said B. then being a dealer and seller of coals by the chaldron within the said city of London, to wit, in the parish, &c.) sold by the chaldron to the said A. and the buyers thereof, another parcel or quantity of coals for twenty chaldrons and upwards, to wit, on, &c. at, &c. delivered coals to the said A. and the buyers thereof, as and for the last-mentioned twenty chaldrons of coals so sold to them; but the said B. not regarding, &c. nor fearing, &c. did not justly measure all the said coals last-mentioned so as aforesaid sold and delivered by the said B. to the said A. and the buyers thereof, nor caused the same to be justly measured with such a bushel as was and is described in and by an act of parliament made in the twelfth year of the reign of our lady Ann, late queen of Great Britain, and intitled, "An Act for the speedy and effectual preserving the Navigation of the River Thames, by stopping the Breach in the Levels of H. and D. in the county of Essex, and for ascertaining the Coal Measure," which he the said B. ought to have done, according to the form of, &c. whereby and by force of, &c. an action hath accrued, &c. the sum of fifty pounds by him forfeited for the said offence last above-mentioned, the said parcel of the said two hundred pounds above demanded: and the said A. who sues as aforesaid, further saith, that the said B. after, &c. and within, &c. to wit, on, &c. at, &c. he the said B. then being a dealer and seller of coals by the chaldron within the said city, to wit, in the parish and ward aforesaid, sold by the chaldron to the said A. and the buyers thereof, another parcel or quantity of coals for twenty chaldron of coals; and afterwards, to wit, on, &c. at, &c. delivered coals to the said A. and the buyers thereof as and for the said twenty chaldrons of coals last above-mentioned sold to them as aforesaid, but the said B. not regarding, &c. nor fearing, &c. did not fill or cause to be filled from such bushels as were

2d Count, for not measuring the coals he sold with such a bushel as the act describes.

3d Count, for selling coals by the chaldron, and not filling the sacks from proper bushels.

and

256 DEBT, &c.—TYTHE—COMMISSIONER'S QUALIFICATION

Declaration on WHEREAS the said B. after the twenty-fifth day of March 21. & 22. W. 3. 1700, to wit, in the month of , in the year of Our Lord for not setting out tythe of hay made perpetual by 1. Geo. 1. of , did sow and cause to be sown with flax four acres of his land in the parish aforesaid; and afterwards, to wit, in the month of , in the same year, took and carried off the said land the crop of flax arising thereon; nevertheless the said B. before the said crop was so carried off the said land, did not pay to the said A. the proprietor of the said tythe of the said flax, twenty shillings, to wit, five shillings for each of the said four acres of the said flax; or any part thereof, according to the form of the statute, &c. but neglected so to do, by reason whereof and by force of the statute an action hath accrued to the said A. to demand and have of the said B. twenty shillings, further parcel, &c.

For acting as a commissioner for the river &c. of Sunderland, not being duly qualified. FOR this, to wit. That by a certain act of parliament made at the session of parliament holden at Westminster, in the county of Middlesex, in the twenty-first year of his present majesty, intitled, "An Act for the better Preservation and Improvement of the River Wear, and Port and Haven of Sunderland, in the county of Durham," the said C. D. was nominated, constituted, and appointed one of the commissioners of the said river, port, and haven within the limits in the said act set forth, for the purposes in the said act mentioned: And the said C. D. so being named a commissioner as aforesaid after the making the said act, and after the twenty-fourth day of June 1747, to wit, at S. in the said county of D. he the said C. D. not then being the mayor or recorder of D. nor the steward of the borough of S. nor the collector, nor the surveyor of the customs for the port aforesaid, nor a coal-filler inhabiting and dwelling in S. aforesaid (acted as a commissioner in the execution of the said act, although he the said C. D. at the time of his acting as a commissioner as aforesaid, was not seised of nor entitled in possession for his own life, nor any greater estate or interest either in law or equity, of, in, and to freehold or copyhold lands, tenements, and hereditaments lying and being in the county of D. of the clear yearly value of one hundred pounds, over and above what would satisfy and discharge all incumbrances that effected the same, nor had taken and subscribed the oath of his qualification by the said act required in that behalf contrary to the tenor and meaning of the said act; by reason whereof, and by force of the said act, &c.

Qu. If necessary to say the particular act he did as commissioner.

I think it not necessary to allege the offence more particularly.

I think this case is not within the clause of this act which limits actions to be brought within the year, but I doubt whether this being a popular action, is not restrained to be brought within the year by 31. Eliz. ch. 15. This is not a case within the words of the act, no more

than the case of a party grieved, which has been determined to be a case out of the act, but I don't know any case determined in point, though it seems to me to be a *casus amissus* out of the act. Cart 232. Show, 353.

D. Pool.

THA

THAT the said W. H. after the making of a certain act of Count for acting parliament made at the session of parliament of our present sove- as a commis-
 eign lord the king by prorogation, holden at Westminster, in the sioner of a turn-
 county of Middlesex, on the twenty-seventh day of November, pike, not being
 the eighteenth year of this reign, entitled, "An Act to repair duly qualified.
 the Road, &c." and after the twentieth day of May 1745, in
 the said act mentioned, to wit, on the twenty-seventh day of Ju-
 1747, at S. in the county of the said city, the said W. H. not
 en being lord mayor, recorder, city council, or an alderman of
 the said city of, nor in his own right, or in the right of his wife,
 the actual possession or enjoyment, or receipt of the rents and
 profits of land, tenements, or hereditaments of the yearly value
 one hundred pounds above reprises, nor heir apparent to any
 person or persons having an estate of the yearly value of two hun-
 dred pounds, acted as a trustee in the execution of the said act,
 contrary to the true intent and meaning of the said act, to wit, at a
 meeting of the trustees for repairing the road then there held, A. B.
 D. &c. and the said W. H. being five of the trustees nominated
 and appointed by the said act for the surveying, ordering, amending,
 and keeping in repair the said roads, and also for putting in execu-
 tion all other powers in and by the said act given to them, and
 he attended as such trustees in the execution of the said act gi-
 ving them, and there attended as such trustees, and then and there
 amongst other things) as such trustees in the execution of the
 said act, made a certain order in writing, to wit, that Mr. F.'s
 imposition should then determine, he having paid off to that day,
 and that the said W. F. and his family should pay for the future,
 according to the tolls mentioned in the said act of parliament, as
 the said order it doth fully appear; and the said W. H. as a
 trustee in the execution of the said act then and there joined with the
 other trustees in making the aforesaid order, contrary to the
 intent and effect of the said act; by reason whereof, and by force
 of the said act, &c.

E. BOOTLE.

A. who prosecutes as well for the poor of the parish of S. S. in On 13. Geo. 2.
 the city of Worcester as for himself in this behalf, complains of B. ch. 19. for
 the said S. and to the said A. who sues as aforesaid, six hundred printing an ad-
 pounds of lawful, &c. which he owes to and unjustly detains from vertisement of a
 him; for that whereas by a certain act made at the parliament of plate to be run
 of the sovereign lord the now king holden at Westminster, in the for under the
 county of Middlesex, by prorogation, on the fifteenth day of No- value of 50l.
 vember, in the thirteenth year of his reign, entitled, "An Act
 to restrain and prevent the Excess of Horse-Racing, and for
 amending an Act made in the last Session of Parliament, enti-
 tled, an Act for the more effectual, &c. and excessive and de-
 ceitful Gaming," it was enacted, that from and after the twen-
 ty-fourth of June 1740, no plate, prize, sum of money, or other
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thing, should be run for by any horse, mare, or gelding, or advertised, published, or proclaimed to be run for by any horse, &c. unless such plate, prize, or sum of money should be of the full, real, and intrinsic value of fifty pounds or upwards; and in case any person or persons should from and after the twenty-fourth day of June 1740, enter, start, or run any horse, mare, or gelding for any plate, prize, sum of money, or other thing of less value than fifty pounds, or should make, print, or advertise, publish, or proclaim any advertisement or notice of any plate, prize, sum of money, or other thing of less value than fifty pounds as aforesaid, such person or persons should forfeit and lose the sum of two hundred pounds to be sued for, recovered, and disposed of in such manner as was thereafter prescribed and directed, and every person or persons as should make, print, publish, advertise, or proclaim any advertisement or notice of any plate, prize, sum of money, or other thing of less value than fifty pounds to be run for by any horse, mare, or gelding, should forfeit and lose the sum of one hundred pounds: And it was further enacted by the authority aforesaid, that all penalties and forfeitures incurred by any person or persons for any offence incurred against that act, should be sued for and recovered by any action, bill, plaint, or information in any of his majesty's courts of record or at the assizes, and should be disposed, one moiety thereof to the use of such person or persons as should so sue for the same, and the other moiety to the use of the poor of such parish or place where the offence should be committed, and recovered of any person or persons within the county of Somerset, as by the said act more fully appears: And the said A. who sues as aforesaid, further says, that the said B. not regarding the said act of parliament, nor fearing the penalty therein contained, after the making of the said act, and after the said twenty-fourth day of June 1740 mentioned in the said act, and before the exhibiting the bill of the said A. who as well, &c. to wit, on the seventeenth day of October 1751, elsewhere than in the said county of Somerset, to wit, at Saint S. in the said city of W. in the county of the same city, printed a certain advertisement in a certain public news-paper or paper of intelligence, commonly called or known by the name of the Worcester Journal, of a certain plate or prize of less value than fifty pounds, to wit, a silver cup of the value of six guineas and no more, to be thereafter run for in a certain place called near W. aforesaid, on Thursday the twenty-fourth day of that then instant October, by any horse, mare, or gelding, except such as had before then won the value of six pounds, fourteen hands high, to carry nine stone, and all above that weight to carry weight for inches, *and of a certain other prize of less value than fifty pounds to wit, a saddle and bridle of the value of two guineas and no more to be thereafter run for in the said place called* by any horse, mare, or gelding that had not won the value of two pounds, which said advertisement so by the said B. printed as aforesaid, then and there contained as follows, to wit, to be run for in P. near W. on Thursday the twenty-fourth of this instant October (meaning the twenty-

fourth of October 1751) a silver cup of six guineas value, horse, mare, or gelding fourteen hands high, to carry nine and all above that height to carry weight for inches, to start at two o'clock, and run the best of three four-mile heats. mare, or gelding will be allowed to run that ever won of six pounds; to enter at the Bull's Head, opposite the Hall in Worcester, the day before the running, and those at the post to pay double entrance; three must start, or there will be no race: likewise to be run for on the same day and same course a bridle and saddle, value two guineas, by any mare, or gelding that never won the value of two pounds. The saddle, bridle, and cup, may be seen at the place of engagement against the form of the statute, &c.; whereby and by &c. the said B. for his said offence in printing the said advertisement forfeited to the said poor of S. S. in which said parish the said offence was committed, and to such person or persons should sue for the same, the sum of one hundred pounds, and and by force of, &c. an action hath accrued to the said parish, and to the said A. who sues as aforesaid, to recover of the said B. for his said offence the said one hundred pounds so forfeited, parcel of the said six hundred pounds demanded: And the said A. who sues as aforesaid, further ad Count. that the said B. not regarding the said act of parliament, nor the penalty therein contained, after the making the said act, on the twenty-fourth day of June 1740, mentioned in the preamble and before the exhibiting the bill of the said A. who sues &c. to wit, on the seventeenth day of October 1751, elsewhere in the said county of Somerset, to wit, in the parish of in the said city of Worcester, in the county of the same mentioned a certain other advertisement in a certain other newspaper or paper of intelligence, to wit, a certain public paper, &c. (as before, verbatim, leaving out the words in Another Count in like manner, for advertising a saddle, bridle, and three other Counts same as the other three, only for publishing instead of printing.)

it intended to have had an action brought, and to have commenced in order to have pleaded the above action, and serjeant inion was taken, how many are proper to be laid in such order to cover all the plaintiffs. I have perused this declaration of opinion that the plaintiff is entitled on the general issue to recover more than one penalty of printing and publishing done by the same person, considered but as one offence, and is only liable to one penalty; advertisement was printed by published by another, each

might be liable, and the offence being described in the disjunctive in the statute, printing or publishing, the plaintiff has for that reason prudently varied the Counts, so that if either printing or publishing be proved, he might be sure of a verdict; as to the other Counts, they only contain a different description of the same offence. With respect to pleading a recovery in a former action at bar, I think that by no means advisable; for if the plaintiff replies, such recovery obtained *per fraudem* as he may, the defendant will not only be liable to the penalty, but to imprisonment for two years, by statute 4. Hen. 7. ch. 20.

D. POOL.

To wit:

Declaration on the 26. Geo. 2. c. 14. against a justice's clerk, for taking more than his fee specified in the table of fees settled according to the directions of the said act.

(1) In the third Count, "assigned to keep the peace of, &c. then and there present at the said last-mentioned quarter sessions, did in due manner, according to the form of, &c.

(2) "should be"

(3) "and according to the form of, &c. approved by the justices of, &c. then and there present at the said last mentioned general quarter sessions of, &c. which said last-mentioned table of fees so made and approved as aforesaid, afterwards, to wit, on, &c. at, &c. was duly ratified and confirmed, according to the form of, &c.

———, to wit. A. complains of B. being, &c. of a plea that he render to the said A. eighty pounds of, &c.; for that at a general quarter sessions of the peace of our late sovereign lord George the Second, holden at the castle of E. in and for the said county of D. on, &c. in the twenty-seventh year of the reign of our said sovereign lord George the Second, late king of, &c. A. D. 1752, before *F. D. Esq. &c. and other their companions, justices of our said lord the king in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdeeds committed in the said county, being the next general quarter sessions of the peace, holden in and for the said county, after the twenty-fourth of June 1753, the said justices of our said lord the king (1) according to and in pursuance of the statute in that case made and provided, did make and settle a certain table of fees which should be taken by the clerk or clerks to the justices of the peace within and for the said county, whereby amongst other things it was directed and appointed, that the fee to be taken by the clerk of any justice of the peace within and for the said county for drawing a certificate or discharge to a parish (meaning a certificate), acknowledging any poor person or persons to be an inhabitant or inhabitants legally settled in the parish by the churchwardens and overseers whereof such certificate or discharge was given, (2) the sum of one shilling, and for the allowance of such certificate or discharge by two or more justices assigned to keep the peace in and for the said county, the further sum of one shilling; and the said A. further says, that the said table of fees afterwards, at the next general quarter sessions of the peace of our said lord the king, held at the castle of E. &c. in and for the said county of D. on, &c. in the twenty-seventh year of, &c. (3) before *W. P. Esq. &c. and others their companions, justices of our said late lord the king, assigned to keep the peace of our said late lord the king in and for the county aforesaid, and also to hear and determine divers trespasses, felonies, and other misdeeds, committed in the said county, was duly approved by the said last-mentioned justices, and which said table of fees, so made and approved of as aforesaid, at the then next assizes of the said late lord the king, holden at the castle of E. in and for the said county, on, &c. in the twenty-seventh year of, &c. before N. G. Esquire, one of the justices of our lord the king of the bench, and sir S. S. knight, then one of the barons of his majesty's court of exchequer, justices of the said late lord the king, assigned to hold the assizes in and for the said county was laid and duly ratified and confirmed by the said sir S. S. the justice aforesaid, according to the form of, &c.; and the said A. further says, that after the space of three months from the time of ratifying and confirming of the said table of fees as aforesaid, to wit, on, &c. at, &c. in, &c. the said B. (he the said B. then and there being clerk to B. T. Esquire, then and there one of the justices of our lord the present king in and for the said county) did receive of and from S. C. the sum of two shillings of, &c. for drawing**

certificate or discharge, (4) *which said certificate was then and* (4) "to a parish, *redirected to the churchwardens and overseers of the poor of the* to wit, from the *ish of, &c. and purported, that the churchwardens and overseers* churchwardens *the poor of, &c. did thereby* certify, own, and acknowledge, and overseers *the said S. C. labourer, and M. his wife, were inhabitants* of, &c. to the *ly settled in the said parish of, &c.; whereby and by force of,* churchwardens *an action hath accrued, &c. twenty pounds of, &c. part and* &c. to"

el of, &c.: And the said A. further says, that after the space 2d Count.
 three months from the time of ratifying and confirming of the
 table of fees as aforesaid, to wit, on, &c. at, &c. in, &c. the
 B. (he the said B. then and there being clerk to B. T. esquire;
 and there one of, &c.) did take and receive of and from the
 S. C. the further sum of *two shillings* for the allowance of the
 certificate or discharge by the said B. T. and T. W. then and
 the two of the justices of, &c. contrary to the form of, &c.;
 whereby and by force of, &c. an action hath accrued, &c. &c.:
 the said A. further says, that at a general quarter session of,
 &c. [finish this Count same as the first, only omitting what 3d Count.
 in Italic and inserting in lieu thereof what is in the margin]:
 the said A. further says, that after, &c. [this Count exactly 4th Count.
 the second].

F. BULLER.

the first act directed the justices to
 set out a table of fees, which was to
 be signed by the judges at the following
 terms, and when so confirmed was to
 be a fixed table to go by; Mr. Justice
 Gudey and Sir J. S. Smythe were the
 judges who went the next assizes and the
 declaration appeared to be signed by only one

judge, viz. Baron Smythe. How Baron
 Smythe only came to sign it occasioned
 Mr. Buller to enquire, and it appeared
 that Mr. Justice Gudey died on that
 very circuit, but whether he died before
 the signing or after could not be ascer-
 tained; wherefore Mr. B. drew the de-
 claration with four Counts.

YORKSHIRE, to wit. A. and B. complain of C, being, &c. Declaration on
 a plea that he render to them fifteen pounds of, &c.; for that the 2. Edw. 6.
 whereas the said A. and B. on, &c. and continually from thence- by the farmers
 forth hitherto were and yet are farmers of all the tithes of corn and of tithes of a
 in yearly arising and growing within the township of C. in the township, for
 parish of K. in the county of York, and within the bounds, limits, not setting out
 of tithable places of the said township; and whereas the said C. 2. Cro. 437.
 &c. and continually from thenceforth hitherto was and yet is "Nil debet" a
 occupier of several parcels of land, to wit, one close called, &c. good plea, Hob.
 in the township of C. aforesaid, the tithes arising and accru- 218. so not guilt-
 ing from which said several closes respectively for forty years be- ty. Mo. 94.
 the making of an act of parliament made in a parliament holden
 the second year of the reign of Edward the Sixth, late king of
 England, at Westminster, in the county of Middlesex, were
 sold and payed to the owners and farmers of the said tithes for
 a time being respectively, and the said C. being occupier of the
 several closes, and the said A. and B. being farmers of the said
 as aforesaid, the said C. on, &c. did sow the several closes

respectively with wheat, oats, &c. and afterwards, to wit, on, &c. cut down all the wheat, &c. growing, arising, and increasing from the sowing upon and from the said several closes respectively, the tithes of which said wheat, &c. cut down and arising upon and from the said several closes respectively did belong, and of right ought to have been yielded and paid to the said A. and B. farmers of the said tithes; yet the said C. being a subject of the present king, well knowing the premises, but not regarding the statute, &c. on, &c. took and carried away all the said wheat so aforesaid cut down from the respective places where the same grew and ought to have been tithed, without dividing or setting forth for the tithe thereof the tenth part of the said wheat, &c. or any of them from the nine parts, residue of the said wheat, &c. or any of them, so taken and carried away as aforesaid, without any agreement or composition made by the said C. with the said A. and B. or either of them for the said tithes, or any part thereof, contrary to the form of, &c.; that the said tithes or the tenth part of the wheat, &c. taken and carried away as aforesaid, at the time of such taking and carrying away the same, was of the value of five pounds; whereby and by force of, &c. an action hath accrued to the said A. and B. to demand and have of the said C. treble the value of the said tithes, amounting to fifteen pounds; yet, &c. &c.

This action is maintainable against executors and administrators for the testator's not setting out the tithes, 1. Mod. Ent. 444.

Where an action was brought for not setting out the tithes on land newly enclosed, the defendants, in order to take advantage of the statute which exempts barren land newly enclosed from payment of tithes for seven years, pleaded the general issue "*nil debet*," and defendant had a verdict. Serjeant Booth advised the plea, and that it is better than plead-

ing the special matter, and Lutwich was of the same opinion.

When the demand is of no kind certain, but the quantum to be settled by a jury, though you demand less on the whole than by your valuation there appears to be due, yet the declaration is good; otherwise where a statute gives a certain penalty, or a certain sum is due by said contract, for there if you declare for a less sum you must shew satisfaction for the residue. Syd. 265.

Declaration on the 32. Hen. 8. against a barber for exercising his trade without being free of the barber's company. ———, to wit. A. who sues as well in this behalf for our lord the king as for himself, complains against B. being, &c. of a plea that he render to our said lord the king, &c. one hundred pounds of, &c.; for that whereas by a certain act of parliament made at a session of parliament of our late sovereign lord king Henry the Eighth, by prorogation holden at Westminster, in the county of Middlesex, on, &c. in the twenty-first year of his reign, and from thence holden unto the eleventh day of May, in the thirty-second year of his reign, from which it was by prorogation continued until the twenty fifth of the same month, and holden until the twenty-fourth day of July in the thirty-second year of his reign, entitled, "An Act for Barbers and Surgeons," reciting

t the king our sovereign lord, &c. [recite the preamble;
e in consideration of the premises it was enacted, &c. that
companies should be one, and should be called, &c. and
and *by none other name* ;] and whereas by the same act it
her enacted by the authority aforesaid, that no manner of
fter the feast of, &c. thence next ensuing the making of the
of parliament should presume to keep any shop of barber-
aving within the city of London, except he were a free-
he same corporation and company, and that if any person,
use of forfeiture], as by the said act more fully appears :
reas also by a certain other act of parliament made at a
parliament, holden by prorogation at Westminster afore-
the said county of Middlesex, on, &c. in the eighteenth
the reign of our late sovereign lord king Charles the
entitled, “ An Act for making the Surgeons of London
Barbers of London two separate and distinct corporations,”
mongst other things enacted, &c. [recite the clause,
g the union of the two companies, and also that the bar-
I enjoy the same privileges, &c. except in surgery]; and
l. who sues as aforesaid, doth aver, that the said B. after
ng of the said several acts of parliament hereinbefore men-
und after the twenty-fourth day of June 1745, to wit, on,
for the space of ten months then next ensuing, at, &c. in,
keep a shop of barberry and shaving within the said city of
to wit, at, &c. and did then and there during that time
ery in the same shop, he the said B. not being a freeman
id corporation and company of barbers and surgeons before
e said twenty-fourth day of June 1745, or the said corpo-
company of barbers *or the said corporation and company*
ns, or either of them, at any time since the twenty-fourth
ine 1745, contrary to the form of, &c. ; by reason where-
y force of &c. he the said B. hath forfeited to the said
king and the said A. who sues as aforesaid, fifty pounds,
five pounds a month for every month of the said ten
wherein he the said B. kept a shop of barberry within the
of London as aforesaid, whereby an action hath accrued,
d the said A. who sues as aforesaid, doth further aver, &c. 2d Count,
1st Count, only omitting the words in Italic.]

It was argued and judgment
stiff, the court saying (only)
of Geo. 2. means only to dis-
companies and make them two

separate companies, and in all other re-
spects to have continued just as they
were before. Stra. 675.

MIDDLESEX, to wit, R. D. who sueth as well for our
king as for himself in this behalf, complains of J. P. gen-
one, &c. ; for that whereas the said J. P. not regarding,
fearing, &c. after the twenty-fifth day of March 1730,
on, &c. at, &c. in, &c. fraudulently and unlawfully got
a piece of parchment a stamp denoting two duties of six-

Declaration on
the 1. Ann, c 22.
s. 2. for getting
off a stamp from
one deed and
fixing it on a-
nother, against
an attorney.

pence each, payable to our said lord the king, according to the form of, &c. with intent to use the same stamp for another writing in respect whereof two several duties of sixpence each then were payable to his said majesty by virtue of, &c. and afterwards, to wit, on, &c. at, &c. fraudulently and unlawfully used the said stamp so got off upon and for the said other writing, being a writing of release and conveyance of lands and tenements by one A. B. to C. D. in respect whereof the said several stamps of sixpence each were payable as aforesaid, to the defrauding the king of the said duties, contrary to the form of, &c. for which offence he hath forfeited the sum of twenty pounds with full costs of suit, by force of the said statute, one moiety of the said twenty pounds to our said lord the king, the other moiety of the said twenty pounds with full costs of suit to the said R. D. the informer; whereby an action hath accrued, &c. twenty pounds above demanded; yet, &c.

Declaration against a collector of the customs persuading an elector to vote contrary to the 12. and 13. Wm. 3.

SOMERSETSHIRE, to wit. A. who sues as well for the poor of, &c. as for himself in this behalf, complains of B. being, &c. of a plea, &c. four hundred pounds of, &c.; for that he the said B. on, &c. in the twenty-sixth year of the reign of, &c. and before was, and from thence hitherto hath been and still is collector of the customs of our lord the now king at the port of M. in the said county of S. and the said B. so being collector of the customs as aforesaid, on, &c. in the twenty-seventh year of, &c. a certain writ of our said lord the king, under the great seal of Great Britain, &c. issued out of his said majesty's court of chancery, (the said court then being at Westminster, in the county of Middlesex), directed to the then sheriff of the county of S. by which said writ of our said lord the king reciting, that whereas by the advice of, &c. [insert the writ to the sheriff], which said writ afterwards, and before the return thereof, to wit, on, &c. at, &c. was delivered to H. F. L. esquire, who was then and there, and continually from thenceforth until and after the return of the said writ, was sheriff of the said county of S. to be executed in due form of law, by virtue of which said writ the said sheriff afterwards, and before the return thereof, to wit, on, &c. at, &c. in, &c. made his precept in writing, sealed with the seal of his office of sheriff of the said county of S. directed to the constables of the borough of M. in the said county, and for the election within the said borough, being within the county of S. aforesaid, of two burgesses of the same borough, according to the form and effect of the said writ, by virtue of which said precept, afterwards, and before the return thereof, to wit, on, &c. in the twenty-seventh, &c. at, &c. in, &c. the election of two burgesses of the same borough to serve as burgesses in and for the said borough at the then next parliament, to be held as aforesaid, was had and made, at which said election, and before, and until the said election the said A. and also C. W. and D. B. esquires, were candidates, that of the two might be elected to serve as burgesses in and for the said borough

borough at the then next parliament; yet the said B. so being the collector of the customs as aforesaid, not regarding, &c. nor fearing, &c. after the twenty-ninth day of September 1711, and before the said election of burgesses in and for the said borough, to wit, on, &c. in the twenty-seventh, &c. at, &c. in, &c. he the said B. did *by word* endeavour to persuade one R. H. (he the said R. H. then and at the time of the said election, being an elector and having a right to vote in the said election) to give his vote for the choice of the said D. B. esquire, in the said election, to be one of the burgesses in and for the said borough of M. to serve in the said parliament as one of the burgesses in and for the said borough, contrary to the form of, &c.; whereby and by force of, &c. an action hath accrued, &c. one hundred pounds, part of the said one hundred pounds above demanded: And the said A. who sues 2d Count.
 the aforesaid, further says, that the said B. so being collector of the customs aforesaid, not regarding, &c. he the said B. did *by message* sent from him to the said R. H. by H. the then and now wife of the said R. H. endeavour to persuade the said R. H. (he the said R. H. then, &c.) to give his vote for the choice, &c.: And the 3d Count,
 said A. who, &c. that B. by message sent from him by one R. B. to one A. B. endeavour to persuade: [4th Count, did by word 4th Count.
 endeavour to persuade one W. B.]; yet, &c.

There had been another action on the 2d Geo. 2. and plaintiff turned round for want of laying another Count, that voter *is deemed* to have a right of voting, but

the statute 12. and 13. W. 3. c. 10. f. 91. on which this action is grounded says *elector only*.

MIDDLESEX, to wit. J. W. who sues in this behalf as well for our sovereign lord the king as for himself, complains of J. C. being, &c. of a plea, &c. six thousand four hundred pounds of, &c.; for that the said J. C. not regarding, &c. nor fearing, &c. within the space of one year next before the exhibiting the bill of the said J. W. to wit, on, &c. and on divers other days and times between that day and the day of exhibiting the bill of the said J. W. at, &c. in, &c. did unlawfully engross and get into his hands and possession by buying a large quantity of butter, to wit, eight thousand dozen of butter of the value of a large sum of money, to wit, the sum of three thousand two hundred pounds of, &c. with intent to sell the same again; and afterwards, on the several days and times aforesaid, at, &c. in, &c. did unlawfully ~~in~~ the same again, contrary to the form of, &c.; whereby and by force of, &c. the said J. C. hath forfeited the said sum of three thousand two hundred pounds, being the value of the said butter bought and sold by the said J. C. as aforesaid; by reason whereof and by force of, &c. an action hath accrued, &c.: *And also for that the said J. C. not regarding, &c. nor fearing, &c. within, &c. &c. did unlawfully engross and get into his hands and possession by engrossing large quantities of butter, to wit, nine thousand six hundred weight of butter, of the value of another large sum of money, to wit, other three thousand two hundred pounds of, &c. with intent*

Declaration on the 5th and 6th Edw. 6. c. 14. f. 3. for engrossing butter.

intent to sell the same again, contrary to, &c.; whereby, &c. &c.; yet, &c. &c.

Declaration on
the stat. 21.
Hen. 8. against
a parson for rent-
ing a farm.

———, to wit. J. B. who sues as well for our sovereign lord the king as for himself in this behalf, complains of W. S. clerk, being, &c. of a plea, &c. five hundred and fifty pounds of, &c.; for that whereas at a session of parliament, begun and holden at London, on, &c. in the twenty-first year of the reign of the late lord Henry the Eighth, late king of, &c. and from thence adjourned to Westminster, in the county of Middlesex, and there continued until the seventeenth day of December, and from that day and place last-mentioned prorogued until the twenty-seventh day of April then next following, it was amongst other things enacted, ordained, and established, that spiritual persons, secular or regular, of what degree soever he or they should be, from thenceforth take to farm, to himself, or to any person or persons to his use, of the lease or grant of the king, nor of any person or persons by letters-patent, indentures, writings, by words or otherwise, by any manner of means, any manors, lands, tenements, or other hereditaments, for term of life, term of years, or at will, upon pain to forfeit ten pounds for every month that he, or any other person to his use, should occupy any such farm by reason of any such lease or grant therein to be made, the one half of which forfeiture should be to the king, and the other half to every such person that would sue for the same by original writ, bill, or plaint of debt, or by any information in any of the king's courts in which actions and suits, no wager of law should be admitted for the defendant, nor any essoign or protection should be allowed; and it was also enacted by the authority of the same parliament, that all and every such spiritual person or persons which then had or occupied in form by themselves, or any other to their use, any manors, lands, tenements, or hereditaments, of the lease or grant of the king, or any other person or persons for term of life, or for years, or at will, by any writing or otherwise, or that then had any annual rents, or other annual advantage or profit, by occasion or colour of any such lease or term, should clearly bargain, sell, give, or grant away on that side the feast of St. Michael the Archangel then next coming, to any such lay person or persons as they would at their own nomination and appointment, all such lease, term, interest, and profits as any such spiritual person or persons at any time after the said feast, by themselves or any other, &c. &c. [set forth the second section of the act verbatim] as by the said act, relation being thereto had, will amongst other things more fully appear; yet the said W. S. being a spiritual person, within the intent and meaning of the said part recited act, and not regarding the statute, &c. he the said W. S. after the feast of St. Michael the Archangel in the said act mentioned, to wit, on, &c. at, &c. in, &c. did take to farm to himself of and from one J. L. for a certain term of years then and yet to come and unexpired, ~~and~~
certain

n farm, consisting of certain lands, to wit, fifty acres of, &c. the appurtenances, situate, lying, and being in, &c. at a yearly rent payable from him the said W. S. to the said or the same, and held and occupied the same by himself the . S. and his servants, for a long time, to wit, from, &c. during the space of eleven months then next following, he said demise, contrary to, &c. he the said W. S. forfeit- is said offence to our said lord the king and the said P. W. s as aforesaid, one hundred pounds, to wit, the sum of ten for each and every of the said eleven months in which he W. S. held the same farm as aforesaid, to wit, at, &c. in, / reason whereof and by force of, &c.; whereby an action :rued, &c. &c.: And the said J. B. who sues as aforesaid, aith, that the said W. S. so being a spiritual person within nt and meaning of the said in part recited act, and not g the statute, &c. nor fearing, &c. he the said W. S. : making of the said act of parliament, on, &c. at, &c. in, take to farm to himself of J. L. a certain farm consisting in lands, to wit, fifty acres of, &c. with the appurtenances, nd being in, &c. to hold to him the said W. S. from, &c. whole year, and so from year to year for so long a term as J. L. and W. S. should think proper, at a certain annual able from him the said W. S. to the said J. L. for the same, : the said W. S. so being a spiritual person as aforesaid, did elf and his servants hold and occupy the same from, &c. for ime, to wit, for the space of eleven months then next fol- contrary to the form of, &c.; whereby, &c. [as in first : And the said J. B. who, &c. further saith, that the said so being, &c. and not regarding, &c. he the said W. S. : making of the said act, to wit, on, &c. and from thence space of eleven months then next following, to wit, at, by himself and his servants, have, use, and occupy a cer- n, consisting of, &c. situate, &c. of the demesne of the : theretofore made to himself the said W. S. and to his a certain yearly rent payable from him the said W. S. to J. L. for the same, contrary to the form of, &c.; where- ten pounds for each and every month of the aforesaid onths in which he the said W. S. so had used and occupied farm as last aforesaid, to wit, in, &c.; by reason whereof force of, &c. an action hath accrued, &c.: [4th Count, he third, only omitting the words "himself and" in Italic] : : said J. B. who, &c. further saith, that the said W. S. , &c. and not regarding, &c. he the said W. S. after the of the said act, to wit, on, &c. and for a long time, to wit, pace of eleven months then next following, to wit, at, &c. did take annual advantage and profit by occasion and colour e of a certain farm, consisting of, &c. situate, &c. by vir- certain demise theretofore made to him thereof by the said and under a certain yearly rent payable from the said W.S. : J. L. for the same, contrary, &c.; whereby, &c. &c. eleven

2d Count.

Qu. Feast of St. Michael in the act mentioned.

3d Count.

4th Count.

5th Count.

eleven months in which he so held, &c. ; by reason, &c. an action hath, &c. ; yet, &c.

To an action on this stat. the defendant may plead "not guilty," that not *barring glebe* he took it for sustentation of his family, Lutw. 136. *Quod non tenet ad firmam contra form. stat.* Sov. 32. ; and

upon the last plea he may give in evidence that it was for the sustentation of his family, Sov. 33. Vide Gilbert's Law of Evidence, p. 11.

Declaration on the 31. Eliz. c. 6. for simony.

SUSSEX, to wit. A. M. who sues in this behalf as well for our sovereign lord the king as for himself, complains of G. B. being, &c. two thousand pounds of, &c. : For that whereas by a certain act of parliament made at a session of parliament of the lady Elizabeth, late queen of, &c. begun and holden at Westminster the fourth day of, &c. in the thirty-first year of her reign, it was enacted and provided by the authority of the same parliament, amongst other things, that if any incumbent of any benefice with cure of souls, after the end of forty days next after the end of the same sessions of that parliament, should corruptly resign or exchange the same, or corruptly take for or in respect of, &c. [recite the whole of the eighth section], as by the said act more fully appears; and whereas the aforesaid sessions of the aforesaid parliament ended on, &c. then next following, to wit, at Westminster aforesaid; and whereas the church of G. in the said county of S. at the said time of making the said act of parliament, and long before, and continually from thenceforth hitherto hath been, and still is, a benefice with the cure of souls, to wit, at G. aforesaid, in the county aforesaid, within the diocese of C. ; and whereas the said G. B. on, &c. and long before, to wit, at, &c. in, &c. was the undoubted incumbent of the said benefice with the cure of souls; and the said A. M. who sues as aforesaid, in fact says, that afterwards, and after the end of forty days next after the end of the said sessions of parliament aforesaid, to wit, on, &c. at, &c. in, &c. it was corruptly agreed by and between the said G. (he the said G. being the undoubted incumbent of the said benefice with the cure of souls as aforesaid) and one C. R. that he the said G. should resign his said benefice to the end and intent that the said C. R. might upon such resignation be instituted and inducted into the said benefice with the cure of souls, and that the said C. R. should pay to the said G. for and in respect of such resignation a large sum of money, to wit, one thousand pounds, and that in pursuance of the said corrupt agreement he the said G. afterwards, to wit, on, &c. then being the undoubted incumbent of the said benefice with the cure of souls, at G. aforesaid, in the county aforesaid, corruptly resigned his said benefice with the cure of souls, and the said C. R. then and there paid to the said G. the sum of one thousand pounds for and in respect of the said resignation, which said sum of one thousand pounds the said G. then and there corruptly took, received, and accepted of and from the said C. R. for and in respect of the said resigning of the said benefice

cure of souls by the said G. as aforesaid: And the said A. saith, that afterwards, to wit, on, &c. the said benefice cure of souls being vacant by the said resignation of the said C. R. was instituted and inducted into the said with the cure of souls, by reason whereof, and by force of parliament aforesaid, an action hath accrued, &c. the thousand pounds of, &c. the same being double the value of a sum of one thousand pounds so corruptly taken, and received by the said G. of and from the said C. R. as yet, &c.: Plea, *Nil debet*.

JOHN, to wit. W. P. who sues, &c. complains of being, &c. of a plea, &c. five thousand pounds of, &c. after the making of a certain act of parliament made in the first year of our late sovereign lord king George the Second, in the seventh year of his reign, entitled, "An Act to suppress the infamous Practice of Stock Jobbing," and after the act of June 1734, in that act mentioned, and also after the making of a certain other act of parliament made in the parliament of the now king, at a session thereof holden at Westminster, in the second year of his reign, intitled, "An Act for raising by Annuity, in Manner therein mentioned, the Sum of Five Millions, to be raised on the Sinking Fund, and for applying the Surplus of certain Duties on Spirituous Liquors, by an Act of this Sessions of Parliament;" that is say, at, &c. to wit, in the parish of, &c. it was contracted and agreed between the said J. R. and the said W. P. that he the said J. R. should sell to the said W. P. and that the said W. P. should buy of the said J. R. certain large parts or shares, to wit, ten thousand pounds and twenty thousand pounds of a certain public stock or security, called the New Subscription, for the year ended by virtue of the said act of parliament secondly mentioned, at the rates or prices following, that is to say, ten pounds thereof at the rate or price of ninety-nine shillings for every hundred pounds thereof; twenty pounds at the rate or price of ninety-nine pounds fifteen shillings for every hundred pounds thereof, to be paid by the said J. R. for the same; and the said W. P. avers, that the said J. R. was not at the time of the making of the said contract actually possessed of and entitled to the said ten thousand and twenty thousand pounds of the said public stock or security, nor any share or shares thereof amounting to the said several sums, either of those sums, in his own right or in his own name, or in the names of any trustee or trustees to his own use or his use, whereby and by force of, &c. the said J. R. forfeited and incurred the sum of one hundred pounds, and by reason thereof and by force of, &c. an action hath accrued, &c.: And the said W. P. who, &c. further says, that the said J. R. after the

Declaration on 7. Geo 2. c. 8. against stock jobbing for buying stock in his own right.

2d Count on the 4th section.

the said first day of June 1734 aforesaid, to wit, on, &c. did lawfully make a certain contract or bargain with the said W. P. in the nature of puts and refusals, concerning certain large or shares, to wit, ten thousand pounds and twenty thousand pounds, amounting together to thirty thousand pounds of aforesaid public stock or security, called the New Subscription the year 1762, by which said contract it was then and there gained and agreed between them, that the said J. R. should to the said W. P. and should assign and transfer to him on or fore the twenty-fifth day of January then next, ten thousand pounds and twenty thousand pounds, amounting together to thirty thousand pounds of the said public stock or security, at certain rates or prices, to wit, &c. [as before], to be paid by the W. P. to the said J. R. for the same; and by the same contract it was then and there bargained and agreed by and between the W. P. and the said J. R. that the said J. R. should be at liberty to refuse to assign, transfer, or deliver to the said W. P. the ten thousand pounds and twenty thousand pounds of the said public stock, security, or subscription, and that the said W. P. should be at liberty to refuse the same, and that in case the said J. R. should refuse to transfer or deliver the same to the said W. P. the said W. P. should refuse to accept the same of the said J. R. then the party, so refusing, should pay to the other the difference which should happen to be between the rate or price which parts or shares of the said New Subscription should bear, or be at on the said twenty-fifth day of January then next, and the rates or prices so agreed to be paid by the said W. P. for the same as aforesaid; and that on the payment of such difference the party so paying the same should be free and discharged from the said contract, contrary to the form of, &c. whereby, &c. [as in Count]: And the said W. P. who, &c. further says, &c. after, to wit, on, &c. at, &c. in, &c. the said T. R. did unlawfully make a certain other contract or bargain with the said W. P. in the nature of puts and refusals, concerning a certain other part or share to wit, twenty thousand pounds of the aforesaid public stock or security, called the New Subscription, for the year 1762, by which said last-mentioned contract it was then and there gained and agreed between them, that the said J. R. should to the said W. P. and should assign, transfer, and deliver to him on or fore the twenty-fifth day of January then next, or before that day if a precept could be obtained from the cashier of the Bank of England in that behalf, twenty thousand pounds of the public stock, security, or subscription, at (1) a certain rate or price, rate or prices then stipulated between them, to wit, of ninety-nine pounds fifteen shillings for every one hundred pounds thereof, to be paid by the said W. P. to the said T. R. for the same contract, and by the same contract it was then and there agreed by and between the said W. P. and the said T. R. that the said T. R. should be at liberty to refuse to assign, transfer, or deliver to the said W. P. the said last-mentioned twenty thousand pounds of the public security, stock, or subscription aforesaid

3d Count on the
4th section.

(1) the rate or
price of ninety-
nine pounds ten
shillings.

the said W. P. also should be at liberty to refuse the same, payment by the party refusing to the other of the said parties difference of the rate or price so agreed for as last aforesaid, rate or price which such part or share of the said public subscription should happen to bear, or be sold for on, &c. next, and that on payment thereof the said party should be discharged from the said last-mentioned contract, contrary to the form and effect of, &c. whereby and by force of, &c. hath accrued, &c. [4th Count, same as 3d Count, only it "ten thousand pounds" instead of "twenty thousand" and omitting what is in Italics, and inserting in lieu what is in the margin]: And the said W. B. who, &c. 4th Count on the 4th section.

&c. after, &c. did unlawfully make a certain other bargain with the said W. P. in the nature of a wager between them, concerning other shares or parts, to wit, other ten thousand pounds, and other twenty thousand pounds, amounting to thirty thousand pounds of the aforesaid public stock or for the year 1762, by which said last-mentioned contract then and there bargained and agreed between them, that the T. R. should sell to the said W. P. and should transfer or deliver him, on, &c. then next, other ten thousand pounds, and twenty thousand pounds, amounting together to thirty thousand of the public stock or new subscription as aforesaid, at the prices following, that is to say, twenty thousand pounds at the rate or price of ninety-nine pounds fifteen shillings and fifty hundred pounds thereof, and ten thousand pounds thereof at the rate or price of ninety-nine pounds ten shillings for every hundred pounds thereof, to be paid by the said W. P. to the T. R. for the same; and by the same contract it was then and agreed between them that the said T. R. should be at liberty to transfer or deliver to the said W. P. the said last-mentioned ten thousand pounds and twenty thousand pounds, amounting together to thirty thousand pounds of the public security or subscription, and that the said W. P. should be at liberty to refuse the same, and that in case the said T. R. should refuse to transfer or deliver the same to the said W. P. or the said W. P. should not accept the same from the said T. R. then the party so refusing should pay to the other of the said parties the difference of rates or prices so stipulated and agreed on as last aforesaid, and that the rates or prices which such parts or shares of the said subscription should happen to bear and be sold for on, &c. next, and that on payment thereof, the party so refusing the same should be free and discharged from the said last-mentioned contract, contrary to the form of, &c. &c. [Same as the 3d Count except for "in nature of puts and refusals," say, "in nature of a wager,"] [Same as the 4th Count, with the like alterations.] And the said W. P. who, &c. further, &c. after, &c. to the said T. R. at, &c. in, &c. the said T. R. did unlawfully make another contract or bargain with the said W. P. in the nature of puts and refusals, concerning certain other parts or shares of

5th Count, in nature of a wager.

6th Count.

7th Count.

8th Count, to sell and deliver, &c.

9th Count.

10th Count,
contract to give
and pay, &c.

of the aforesaid public stock or security called the New Subscription for the year 1762, by which said last-mentioned contract was then and there bargained and agreed by and between the said T. R. and the said W. P. that the said T. R. should sell to said W. P. and should transfer and deliver to him, so soon as precepts in that behalf could be obtained from the cashier of Bank of England, certain other parts or shares, that is to say other ten thousand pounds, and other twenty thousand pounds of the said public stock, security, or subscription at the rates or prices following, to wit, &c. &c. to be paid by the said W. P. to the said T. R. for the same; and by the same contract it was then and there agreed by and between the said W. P. and the said T. R. that the said T. R. should be at liberty to refuse to transfer or deliver the same to the said W. P. or the said W. P. should refuse to accept the same of the said T. R. then the party so refusing should pay to the other of the said parties the difference between the said rates or prices so stipulated and agreed on for the said last-mentioned shares as aforesaid, and the said rates or prices which the like parts or shares of the New Subscription should happen to bear, or be sold for at the time so appointed for the delivery of the same two last-mentioned shares to the said W. P. as aforesaid, and that on payment thereof the party so paying such difference should be free and discharged from the *last-mentioned contract*, contrary to the form of, &c. &c. [Same as the last, except for "puts and refusals," say "in the nature of a wager and after "discharged from the said last-mentioned contract,"] and the said W. P. avers, that the said last-mentioned contract was made and entered into by the said T. R. with the said W. P. in the nature of a wager between them, to wit, at, &c. contrary to the form of, &c.": And the said W. P. who, &c. after, &c. to wit, on, &c. at, &c. in, &c. it was contracted by and between the said T. R. and the said W. P. concerning certain other parts or shares, to wit, other ten thousand pounds, and other twenty thousand pounds, which the said T. R. then claimed to be entitled to, of and in the aforesaid public stock or security called the New Subscription for the year 1762, that the said W. P. should give or pay to the said T. R. and that the said T. R. should take, accept, and receive of and from the said W. P. the sum of five hundred pounds as a premium or consideration for the said W. P. to put upon, accept, or refuse the said two last-mentioned parts or shares of the said New Subscription on a then future day, that is to say, on, &c. then next, at the rate or price of ninety-nine pounds ten shillings for every hundred thereof, to be paid by the said W. P. to the said T. R. for the same, in case he should choose to accept the same: And the said W. P. further says, that in pursuance of the said last-mentioned contract, he the said W. P. did afterwards, to wit, on, &c. at, &c. in, &c. give and pay to the said T. R. and the said T. R. did then and there take, accept, and receive

from the said W. P. the said sum of four hundred pounds mium or consideration for the said W. P. to have liberty upon, accept, or refuse the said two last-mentioned shares, amounting together to thirty thousand pounds of the said subscription at a then future time, that is to say, on, &c. at the rates or prices last aforesaid, to be paid by the said to the said T. R. for the same, in case the said T. R. then chuse to accept thereof, contrary to the form of, &c. t, &c.

DLESEX, to wit. ——— plaintiffs, assignees of the goods, and effects which were of T. C. a bankrupt, according to the form and effect of the said statutes made and now in concerning bankrupts, complains against defendant being, and pleads that he renders to the said plaintiffs six thousand three pounds of, &c. : For that whereas the said T. C. before &c. and from thence until the issuing the commission against him, did use and exercise, &c. [set commission against the bankrupt, and then proceed], as said indenture more fully appears: *And the said plaintiffs say, that the said T. C. before he became a bankrupt as, to wit, on, &c. at, &c. in, &c. was possessed of certain, to wit, one horse, &c. of the value of five hundred of, &c. as of his own proper cattle, and being so possessed he the said T. C. afterwards, to wit, on, &c. at, &c. by a certain deed poll then and there made and sealed with of the said T. C. did bargain, sell, assign, and set over the aforesaid, upon the trusts following, that is to say, upon full trust and confidence, and to the intent and purpose that said defendant, his executors, or administrators should and from time to time, and at all times as the said T. C. should should appoint, sell and dispose of the said cattle, or any or either, to such person or persons, or for such price or prices as the said T. C. should by an order under his hand writing, nominate, elect, and appoint, and transact any lawful matter or thing to breeding, milching, and rearing the said cattle, and monies and profits arising thereby were to be appropriated used of by the said defendant, his executors, and administrators to and for the sole and whole use, benefit, and behoof of the said his executors, administrators, or assigns, (a) of which bargain and sale so made as aforesaid upon the trusts aforesaid, said defendant afterwards, to wit, on, &c. at, &c. in, &c. did, and then and there assented thereto, and accepted the same: And it was then and there agreed by and between the said defendant and the said T. C. that he the said defendant should be saved harmless, and also his executors, administrators, assigns, of and from, and have leave to deduct to him his share of the trust was given the defendant on the day following, of which accepted.*

Declaration on 5. Geo. 2. c. 30. s. 21. against defendant for concealing a deed of trust of cattle for the benefit of a bankrupt.

Deed poll.

and themselves all costs, charges, damages, and expences as he or any of them should sustain, expend, or be put unto for or by reason of the trust aforesaid, or the execution thereof, and also to deduct to him and themselves all the charges and expences that should accrue, and was then due, or to become due to him or them for or by means of the keeping and feeding the said cattle, or any of them: And the said plaintiffs further say, that the said defendant, by virtue of the said deed poll so made as aforesaid, was at the time when the said T. C. became a bankrupt as aforesaid, and also at the time of issuing forth the said commission, and notice thereof given in the London Gazette as aforesaid, possessed of all the said cattle upon the said trusts as aforesaid, to wit, at, &c.; yet the said defendant not regarding, &c. nor fearing, &c. did wilfully conceal the said cattle in the trust aforesaid from the creditors of the said T. C. and did not within forty-two days next after the issuing forth of the said commission against the said T. C. and notice thereof given in the London Gazette as aforesaid, discover or disclose the said cattle, or any of them, or the trust aforesaid, in writing, or otherwise, to any one or more of the commissioners named in the said commission, nor to the said plaintiffs, or any of them, but wholly neglected so to do, to wit, at Westminster aforesaid, contrary to, &c.; whereby and by force of, &c. forfeited for his said offence the sum of one thousand one hundred pounds, to wit, one hundred pounds, and double the value of the said cattle so concealed as aforesaid, to and for the use and benefit of the creditors of the said T. C.; whereby and by force of, &c. an action hath, &c. &c.: And the said plaintiffs further say, that the said T. C. before he became a bankrupt as aforesaid, to wit, on, &c. at, &c. in, &c. was possessed of certain other cattle, to wit, &c. &c. of the value of, &c. as of his own proper cattle, and being so possessed thereof, he the said T. C. afterwards, to wit, on, &c. at, &c. in, &c. by a certain other deed poll, &c. [as in the last Count]: And the said plaintiffs further say, that the said defendant, by virtue of the said last-mentioned deed poll so made as last aforesaid, was at the time when the said T. C. became a bankrupt as aforesaid, and also at the time of the issuing forth the said commission, and notice thereof given in the London Gazette as aforesaid, possessed of all the said last-mentioned cattle upon the said last-mentioned trust as aforesaid, to wit, at, &c.; yet the said defendant not regarding, &c. nor fearing, &c. did wilfully conceal, &c. &c. [as the last Count to the end]: And the said plaintiff further say, that the said T. C. before he became a bankrupt as aforesaid, to wit, on, &c. at, &c. in, &c. *transferred to the said defendant* certain other cattle, to wit, &c. of him the said T. C. which were then and continually afterwards and still are of great value, to wit, of, &c. to wit, at, &c. upon

2d Count.(a)

3d Count.(b)

(a) Omits setting out the commission.
 (b) This Count does not set out the deed poll, but only alleges that the

bankrupt transferred to defendant other cattle upon trust for the bankrupt's use.

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for the sole use and benefit of the said T. C. and that the said
 ant then and there accepted of the said trust; and the said
 ffs further say, that the said defendant at the said time when
 d T. C. became a bankrupt, and also at the time of issuing
 he said commission, and notice thereof given in the London
 e as aforesaid, was and remained possessed of the said last-
 ned cattle upon the trust last aforesaid; yet the said defend-
 ot regarding, &c. nor fearing, &c. did wilfully protect,
 c. [as in 1st and 2d Counts, only omit the words "or
 ise"]; yet, &c.

ormont and Way. Michaelmas Term, 27. Geo. III.

MIDDLESEX, to wit. John Parke (*being an officer of the*
) qui tam against T. Roe, in debt for six thousand pounds;
 the said Thomas, after the first day of August 1759, men-
 in a certain act of parliament made and passed in the thirty-
 year of the reign of his late majesty king George the Se-
 nd entitled, "An Act for the more effectual preventing the
 lulent Importation of Cambricks and French Lawns," and
 the exhibiting the bill of the said John, who sues as afore-
 wit, on the fourth of August, A. D. 1786, at Westmin-
 the county of Middlesex aforesaid, did sell, that is to say,
 e Ann Larkin, a certain quantity of foreign cambrick, to
 e quarter of a yard of French cambrick, contrary to the
 f the statute in such case made and provided; by reason
 of, and by force of the said statute, the said Thomas for-
 for his said offence the sum of two hundred pounds of law-
 ney of Great Britain, and whereby and by force of the sta-
 such case made and provided an action hath accrued to our
 d the now king and to the said John, being an officer of
 stoms, who sues as aforesaid, to demand and have of and
 he said Thomas, for our said lord the now king and the said
 who sues as aforesaid, the said sum of two hundred pounds
 ited as aforesaid, parcel of the said six thousand pounds a-
 emanded: And the said John, who sues as aforesaid, in fact
 faith, that the said Thomas, after the said first day of Au-
 1759, and before the exhibiting of the bill of the said John,
 es as aforesaid, to wit, on the said fourth of August, A.D.
 at Westminster aforesaid, in the county aforesaid, *did offer*
pose to sale, "had in his possession and custody elsewhere and
 ise than in such warehouse as had been approved of by the
 iffioners of the customs, or any three or more of them, as
 aforesaid act of parliament is directed," a certain other
 ty of foreign cambrick, to wit, one other quarter of a yard of
 cambrick "for the purpose of selling the same," contrary
 form of the statute in such case made and provided; by rea-
 hereof, and by force of the said statute, the said Thomas
 ed for his said last-mentioned offence the further sum of two
 ed pounds; whereby and by force of the statute in such case

Debt on stat. 32.
 Geo. 2 for sel-
 ling foreign
 cambricks, and
 making cam-
 bricks not mark-
 ed at both ends;
 with a great va-
 riety of counts.

2d and 3d
 Counts.

4th Count.

made and provided, an action hath accrued to our said lord the king and to the said John, being *such* "an" officer of the customs who sues as aforesaid, to demand and have of and from the said Thomas for our said lord the now king and the said John, sues as aforesaid, the said sum of two hundred pounds so forfeited as last aforesaid, other parcel of the said six thousand pounds above demanded: And the said John, who sues as aforesaid, in fact further saith, that the said Thomas, after the twenty-ninth day of September 1767, mentioned in a certain act of parliament made and passed in the seventh year of the reign of his present majesty, entitled, "An Act to amend and enforce the Acts of the eighteenth, nineteenth, twentieth, twenty-first, and thirty-second Years of the Reign of his Majesty King George the Second, for the more effectual preventing the fraudulent Importation and Wearing of Cambricks and French Lawns," and before the exhibiting of the bill of the said John, who sues as aforesaid, to wit, on the said fourth of August, in the year 1786 aforesaid, at Westminster aforesaid, in the county aforesaid, did sell, to wit, unto the said Ann Larkin, a quantity, that is to say, one quarter of a yard of cambrick then and there being part of one entire piece of cambrick made and fabricated in Great Britain after the said twenty-ninth day of September 1767, and which entire piece had not been marked or stamped at both ends thereof, in manner by the said last-mentioned act of parliament directed, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the said last-mentioned statute, the said Thomas forfeited for said last-mentioned offence the further sum of two hundred pounds whereby and by force of the statute in such case made and provided an action hath accrued to our said lord the now king and for said John who sues as aforesaid, the said sum of two hundred pounds so forfeited as last aforesaid, other parcel of the, six thousand pounds above demanded: And the said John, who sues as aforesaid, in fact further saith, that the said Thomas, after the twenty-ninth of September 1767, and before the exhibiting of the bill of the said John, who sues as aforesaid, to wit, on the fourth of August 1786 aforesaid, at Westminster aforesaid, in the county aforesaid, did *offer and expose to sale a certain other* "quantity, to wit, one entire piece" that is to say, one quarter of a yard, then and there being of one remnant" of cambrick, made and fabricated in Great Britain, "after the said twenty-ninth of September 1767," which said entire piece "remnant" was not marked or stamped at either "one" end thereof, in manner by the said last-mentioned act of parliament directed, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the said last-mentioned statute, the said Thomas forfeited for said last-mentioned offence the further sum of two hundred pounds whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the now king and to the said John, being *such officer as aforesaid* "of the customs

5th and 6th Counts.

sues as aforesaid, to demand and have of and from the said Thomas for our said lord the king and for the said John, who sues aforesaid, the said sum of two hundred pounds so forfeited as last said, other parcel of the said six thousand pounds above deduced. [7th Count, did offer and expose to sale a quantity, that is to say, one quarter of a yard of cambrick, then and there being of one remnant of cambrick, made and fabricated in Great Britain, after the said twenty-ninth day of September 1767, and which remnant was not marked or stamped at one end thereof, in manner by the said last-mentioned act of parliament directed, contrary, &c. 8th Count, had in his custody for the purpose of selling the same, one other entire piece "remnant" of cambrick, made and fabricated in Great Britain, after the said twenty-ninth day of September 1767, and which had "was" not been marked or stamped at both ends, "one end" thereof, in manner as by the said last-mentioned act of parliament directed: And the said John, who sues as aforesaid, in fact further saith, that the said Thomas, on the twenty-ninth of September 1767, and before the exhibiting of the bill of the said John, who sues as aforesaid, against him the said Thomas, to wit, on the fourth day of August 1786 aforesaid, at the said minister aforesaid, did sell, to wit, to the said Ann Larkin, a quantity to wit, one quarter of a yard of goods of the kind usually called or known by or under the denomination of cambrick then and there "being" one entire piece "a remnant" of such goods made and fabricated in Great Britain since the said twenty-ninth of September 1767, which had "remnant was" not been marked or stamped at both ends "one end" thereof in manner by the said last-mentioned act of parliament directed, contrary, &c. [12th and 13th Counts like the 7th and 8th, with similar variations, but for offering and exposing to sale instead of "selling," and not saying to whom. 14th and 15th, had in his custody, for the purpose of selling the same, one other entire piece "remnant" of goods of the kind usually called or known by or under the denomination of cambrick, made and fabricated in Great Britain since the said twenty-ninth of September 1767, and which had "was" not been marked or stamped at both ends "one end" thereof, in manner by the said last-mentioned act of parliament directed, contrary, &c.]

7th Count.

8th and 9th Counts.

10th and 11th Counts.

12th and 13th Counts.

14th and 15th Counts.

The declaration contained fifteen other counts on a second offence, which differed from the fifteen first, only in the words with common conclusion in *qui tam*.

I apprehend nobody can sue for these penalties but the attorney-general, advocate-general, or some officer of the customs.

G. WOOD.

TOLLEMACHE against LALHAM.

Looking into the act of the 2d Geo. 3. by which a prosecutor for penalties on the game laws is entitled to recover a whole of them to his own use;

it appears that he is only empowered to sue for them in his majesty's courts at Westminster, so that the action at the suit of the prosecutor alone will lie only in one of record at of Kingston.

of the courts at Westminster Hall; there is, however, another statute of 8. Geo. 1. c. 19. by which an action is given for such penalties as previously existed in any of his majesty's courts of record (a) not confining it to the courts at Westminster) but upon that statute the action should correspond with the then distribution of the forfeiture, and be brought by the prosecutor as well for himself as for the poor of the parish where the offences were committed; it will, therefore, be necessary for the plaintiff either to levy his plaint, and issue his process in the court below, as well for himself as the poor of that particular parish, otherwise the variance between the plaint and the declaration will be fatal, or else to proceed in one of the superior courts. The same observation of variance will apply to the sum demanded, unless counts enough

are put into the declaration for of five pounds each, to amount to a sum of fifty pounds. The gun dog can take but two apiece, for keeping, and another for using them, unless by a variation of declaration should be observed also, that it is under 8. Geo. 1. must be brought before the end of the next term after the offence committed; you therefore, specify the parish where the offences were committed (which different parishes, cannot be joined together) the number of counts inserted, in case a new plaint is levied, dates which must precede the plaint yet be within the limitations of the statute, and what description of dog the defendant keeps, that is included in 5. Ann, c. 14.

SAMUEL MAR

(a) But these words mean the superior courts at Westminster (Moor, 509, 340.) especially as the act contains a provision, that "no wager or effoign allowed" which has always been construed as applicable only to the superior courts at Westminster. Cro. Car. 112. Hutt. 98.

Declaration *qui tam* for the poor of the parish, in the court of record of Kingston-upon-Thames, for using a gun and a dog to kill game, not being qualified. Other counts for keeping, &c. and exposing to sale a partridge.

1st and 2d Counts.

KINGSTON UPON THAMES. The honourable Will Tollemache, who sues as well for the poor of the parish of Ric in the county of Surry, as for himself in this behalf, by Richard Tollemache his attorney, complains of Thomas Lalham, in a plea tender to the poor of the said parish, and to the said Wilbraham sues as afore said, the sum of twenty-five pounds of lawful money of Great Britain, which he owes to and unjustly detain them: For that "*and the said Wilbraham further says, that the said Thomas, since the commencement of Hilary term next past, to wit, on the day of "in the" and Our Lord 1789 "afore said," at the parish afore said, in the county afore said, and within the jurisdiction of this court "afore kept "used" a certain "other" engine, that is to say, a "other" gun, to kill and destroy the game of that part of Great Britain called England, he the said Thomas not then being justified by the laws or statutes of this realm, or any of them, do, against the form of the statute in such case made and provided, whereby and by force of the statute in such case made and provided, the said Thomas there forfeited for his said "last-mentioned" offence, the "further" sum of five pounds, and thereby by force of the statute in such case made and provided, an amount hath accrued to the said Wilbraham, who sues as afore said, demand and have for himself and the said poor of the said parish and from the said Thomas, the said sum of five pounds so far as "last" afore said, "other" parcel of the said sum of twenty*

bove demanded. [The 3d and 4th Counts were exactly 3d and 4th
 econd, except in the date of the offences, and that they Counts.
 keeping “and using” a certain “other” *lurcher* to kill
 oy the game, &c. instead of a certain engine, *i. e.* a certain
 th Count : And the said Wilbraham further says, that the 5th Count.
 mas, since the commencement of Hilary term now last
 it, on the day of , in the year aforesaid, at
 aforesaid, in the county, and within the jurisdiction a-
 exposed to sale one partridge, the said partridge then and
 og the game of that part of Great Britain called England,
 id Thomas not being a person by the laws and statutes
 alm, or any of them qualified in his own right to kill
 r entitled to such partridge under any person so qualified,
 e form of the statute in such case made and provided ;
 and by force of the statute in such case made and pro-
 e said Thomas there forfeited for his said last-mentioned
 he further sum of five pounds, and thereby and by force
 tute in such case made and provided, an action hath ac-
 the said William, who sues as aforesaid, to demand and
 himself and the said poor of the said parish, of and from
 Thomas, the said sum of five pounds so forfeited as last
 residue of the said sum of twenty-five pounds above
 l; yet the said Thomas, although often requested, hath
 the said sum of twenty-five pounds above demanded, or
 thereof, to the said poor of the said parish, or to the said
 , who sues as aforesaid, or to any of them, but to pay the
 ny part thereof hath hitherto wholly refused, and still re-
 the damage of the said W. who sues as aforesaid, of ten
 and therefore the said W. as well for the said poor of the
 as for himself in this behalf, brings suit, &c. Pledges,

standing it is desired to have
 ion conformable to the plaint,
 it most adviseable to declare
 Mr. Tollemache on behalf of
 s well as himself. My reason
 is, that a judgment upon
 ion would at worst be only
 account of the declaration's
 the plaint, whereas a judg-
 one at his own suit only
absolutely void, inasmuch as the
 l then have no jurisdiction
 of action, and the whole
 would be *coram non judice*, the
 of which would be the officer

who executed the process on it, the party
 and the attorney issuing it, would all be
 trespassers, and liable to an action, without
 proceeding to reverse the judgment by a
 writ of error. Then there is one case in
 2. Str. 1232. and another in 3. Will. 141,
 where it was held that the plaintiff may
 declare *qui tam*, although the process is
 not so; but although this doctrine may
 hold in the superior courts, where the
 process forms no part of the record, I
 doubt the correctness of it, as applicable
 to a jurisdiction where I presume the
 plaint will appear upon the judgment
 roll.

SAMUEL MARRYATT.

Debt for expos-
ing game to
sale.

King's Bench. Trinity Term, 30. Geo. 3.

JAMES ENGLISH

against

MIDDLESEX

to wit. For the

2d Count.

JOHN OAKLEY CLARKE, in debt for 240 l. } the said John C
within the space of six months next before the commencement of
this suit, to wit, on the twenty-second day of December A.D. 1788,
at Westminster, in the county of Middlesex, *sold* divers hares
and partridges, to wit, two hares and two partridges, contrary to
the form of the statute in such case made and provided; whereby
and by force, &c. the said John O. forfeited for his said offence the
sum of twenty pounds, being the sum of five pounds for each and
every of the said hares and partridges so sold as aforesaid, and
thereby and by force of the statutes in such case made and pro-
vided, an action hath accrued to the said James to demand and
have of and from the said John O. the said sum of twenty pounds
so forfeited as aforesaid, parcel of the said sum of three hundred
and forty pounds above demanded: And the said James in fact
further saith, that the said J. O. within the space of six months
next before the commencement of this suit, to wit, on the said
twenty-second day of December A.D. 1789 aforesaid, at West-
minster aforesaid, in the county aforesaid (*he the said J. O. then
and there being a poulterer*) *did expose to sale* divers other hares
and partridges, to wit, two other hares and two other partridges
contrary to the form of the statute in such case made and provided
whereby and by force of the statute in such case made and pro-
vided, the said J. O. forfeited for his said last-mentioned offence
the sum of twenty pounds, being the sum of five pounds for each
and every of the said last-mentioned hares and partridges, and
thereby and by force of the statute in such case made and provided
an action hath accrued to the said James to demand and have of
and from the said J. O. the said last-mentioned sum of twenty
pounds so forfeited as aforesaid, other parcel of the said sum of
three hundred and forty pounds above demanded. [Several other
Counts for other penalties of the same nature incurred on different
dates to the amount of the money demanded; and common conclu-
sion in debt.]

Stormont and Way. Trinity Term, 28. Geo. III.

Debt on 23. G.
3. for writing a
receipt in full of
all demands un-
stamped.

LANCASHIRE, to wit. James Mac Crery, who sues as
well for our sovereign lord the king as for himself in this behalf,
complains of Daniel Burkett being in the custody of the marshal
of the marshalsea of our lord the now king, before the king him-
self, of a plea that he render to our said lord the king and to the
said James, who sues as aforesaid, the sum of ten pounds of lawful
money of Great Britain, which he owes to and unjustly detain
from them: For that the said Daniel, after the twenty-fifth day of
March 1784, and before the exhibiting of the bill of the said
James who sues as aforesaid against the said Daniel, to wit, on the
fifteenth of May A. D. 1788, at Liverpool, in the county of L.
did cause to be written a certain receipt then and there given by
him

him the said Daniel to the said James for the payment of money, that is to say, for the payment of the sum of two pounds twelve shillings and tenpence sterling by the said James to the said Daniel, in which the sum mentioned therein was then and there expressed to be in full of all demands, and which said receipt was then and there liable to a certain stamp duty, that is to say, the stamp-duty of fourpence, charged and imposed in and by a certain act made at the parliament of our said lord the king, holden at Westminster, in the twenty-third year of his reign, entitled, "An Act for repealing an Act made in the twenty-second year of his present majesty, entitled, "An Act for charging a Stamp Duty upon Inland Bills of Exchange, Promissory Notes, or other Notes payable otherwise than upon Demand, and for granting new Stamp Duties on Bills of Exchange, Promissory or other Notes, and also Stamp-Duties on Receipts," upon a certain piece of paper, without the same first being duly stamped, as in and by the same act is directed, and upon which there was not then and there any stamp or mark resembling the same, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, the said Daniel forfeited and became liable to pay for his said offence the sum of five pounds, and thereby and by force of the statute in such case made and provided an action hath accrued to the said James, who sues as aforesaid, to demand and have for our said lord the king and for himself in this behalf, of and from the said Daniel, the said sum of five pounds so forfeited as aforesaid, parcel of the said sum of ten pounds above demanded; and also for that the said Daniel, after the said twenty-fifth of March 1784, and before the exhibiting of the said bill, to wit, on the said fifteenth of May, in the year 1788 aforesaid, did sign a certain other receipt then and there given by him the said Daniel to the said James for the payment of money, that is, for the payment of the sum of two pounds twelve shillings and tenpence sterling, by the said James to the said Daniel, in which the sum mentioned therein was then and there expressed to be in full of all demands, and which said last-mentioned receipt was then and there liable to a certain stamp-duty, that is, the stamp-duty of fourpence, charged and imposed in and by the said first-mentioned act of parliament upon a certain piece of paper, without the same being first duly stamped, as in and by the same act is directed, and upon which there was not then and there any stamp or mark resembling the same, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, the said Daniel forfeited and became liable to pay for his said last-mentioned offence the further sum of five pounds, and thereby and by force of the statute in such case made and provided, an action hath accrued to the said J. who sues as aforesaid, to demand and have for our said lord the king and for himself in this behalf, of and from the said Daniel the said sum of five pounds so forfeited as last aforesaid, residue of the said sum of

of

sum of fifty pounds so forfeited as aforesaid, residue of the said sum of one hundred pounds above demanded.

Declaration for **LONDON**, to wit. T. W. who sues as well, &c. complains
selling an ox, against B. B. being, &c. twenty-five pounds: For that the said B.
not having kept not regarding the statute, &c. nor the penalty therein contained,
him five weeks. within the space of two years next before the exhibiting the said
5. and 6. Ed. 6. bill of the said T. W. to wit, the ninth of February 1737, at L.
G. 1. f. 19. aforesaid, in the parish, &c. in the ward, &c. did buy a certain ox
living, of the value of twelve pounds ten shillings, which said ox
so by the said B. bought, he the said B. did not keep or feed by the
space of five weeks in his the said B.'s house, ground, farm ground,
or in such ground or grounds where the said B. had the herbage or
common of pasture by grant or prescription, but the said B. within
the space of five weeks next after the buying of the said ox by him
as aforesaid, to wit, on the tenth of February aforesaid, at L. aforesaid,
in the parish and ward aforesaid, did sell again the said ox alive,
contrary to the form of the statute, &c.; whereby the said B. hath
forfeited, &c.

Declaration a. **CUMBERLAND**, to wit. W. A. complains of G. B. being,
against one for &c.: For that after the twenty-fourth of June 1739, to wit, at
practising as an the second county court of R. C. esquire, sheriff of the said county
attorney in the of Cumberland, holden at O. in and for the said county, on Wed-
county court, nesday the twentieth of February, in the thirteenth year of the
not being ad- reign of his present majesty, before J. B. and J. W. gentlemen,
mitted. then suitors of the said court, the said G. sued out of the said court
12, G. 2. c. 13, a certain process called a *levari*, in the name of the said R. C. then
sheriff of the said county, directed to J. S. and all other bailiffs of
the said sheriff within the said county, by which said process the
said sheriff did command them and every of them, jointly and se-
verally, to levy fourteen shillings and a penny halfpenny of the goods
and chattels of J. D. within the jurisdiction of the county aforesaid,
which A. M. had adjudged before the suitors of the same court for
his damage and costs which he sustained by reason of certain pro-
mises made to the said A. by the said John, at O. in the said county,
and not performed, and that the said bailiffs, or some of them,
should have the money at the then next court to be holden
for the said county, before the suitors of the said court, to satisfy
the said A. for his damages, costs, and charges aforesaid, for which
he was convicted, he the said G. B. at the time of the suing out
of the said process out of that court as aforesaid, not being legally
admitted an attorney or solicitor, according to an act of parlia-
ment made in the second year of the reign of his said present ma-
jesty, entitled, "An Act for the better Regulation of Attornies
" and Solicitors," against the form of the statute, &c.; for which
said offence the said G. by force of that statute, hath forfeited
the sum of twenty pounds; whereby an action hath accrued
to the said W. A. to demand and have of the said G. B.
twenty pounds, part of the one hundred and twenty pounds:

And

And the said W. A. further says, that after the said twenty-fourth ^{2d} Count. of June 1749, to wit, at the third county court of the said R. C. esquire, sheriff of the said county of C. holden at O. in and for said county, on Wednesday the nineteenth of March, in the thirteenth year of his said present majesty, before B. H. and J. W. then suitors of that court, one P. D. gentleman, came in his own proper person, and then and there in the said court levied his plaint against J. B. in a plea of trespass upon the case to the said P. D. his damage of thirty-nine shillings and elevenpence, and the said last-mentioned action being so commenced, he the said G. B. afterwards, at the sixth county court of the said R. C. esquire, sheriff of the said county of C. holden at O. aforesaid, in and for the said county, on Friday the twenty-third of May, in the thirteenth year aforesaid, before W. R. and T. H. then suitors of the said court, did carry on the proceedings in the said last-mentioned action then and there depending to trial in the said last-mentioned court, called the county court, he the said J. M. then not being or having been legally admitted an attorney or solicitor, according to the said Act, made in the said second year of the reign of his said present majesty, against the form of the said statute, &c. for which said offence the said J. G. by force of the statute hath forfeited another sum of twenty pounds; whereby an action hath accrued to the said W. A. to demand, &c. other twenty pounds, her part of the said one hundred and twenty pounds: And the ^{3d} Count. said W. A. further says, at the sixth county court of, &c. on Friday the twenty-third of May, before, &c. another *levari facias*, her suitors and parties: And the said W. A. further says, &c. ^{4th} Count. third county court, [as the second Count]. [^{5th} Count, after-^{5th} Count. wards, at the eighth county court of, &c. on, &c. before, &c. her parties and times. ^{6th} Count, ninth county court, another ^{6th} Count. plaint levied before T. G. and R. F. then suitors of the said court, defended the said last-mentioned action then depending in that said court. *Mutuatus* twenty pounds]; yet, &c. Damages in pounds.

MIDDLESEX, to wit. Edward Armstrong, esquire, com-Declaration a-
 mons of James Fenn, esquire, and Matthew Bloxham, esquire, gainst the sheriff
 of the county of Middlesex, being, &c.: For that whereas on the statute
 of a certain act of parliament, made at Westminster in the said 8. Ann, c. 14.
 county of Middlesex, in the eighth year of the reign of our sove- f. 1. for not pay-
 eign lady Ann, late queen of Great Britain, entitled, "An Act ing plaintiff a
 for the better Security of Rents, and to prevent Frauds com- year's rent un-
 mitted by tenants," it was, amongst other things, enacted, that der an execu-
 on and after the first of May, which would be in the year of Our tion.
 said 1710, no goods or chattels whatever lying or being in or
 on any messuage, lands, or tenement which were or should be
 used for life or lives, terms of years, at will, or otherwise, should
 be liable to be taken by virtue of an execution on any pretence
 what-

whatsoever, unless the party at whose suit the said execution should be sued as aforesaid, should, before the removal of such goods from off the said premises by virtue of such execution or extent, pay to the landlord of the premises or his bailiff all such sum or sums of money as were or should be due for rent for the said premises at the time of the taking such goods and chattels by virtue of such execution, provided the said arrears of rent should not amount to more than one year's rent, then the said party at whose suit such execution should be sued out, paying the landlord or his bailiff one year's rent, might proceed to execute his judgment as he might have done before the making of the said act: and the said sheriff or other officer was by the said act empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money, as by the said act may more fully and at large appear: [And whereas the said Edward, after the making of the said act, to wit, on the sixteenth of January, A. D. 1787, at, &c. demised to one H. A. a certain messuage or dwelling-house, with the appurtenances, together with divers quantities of furniture therein of the said Edward, situate, standing, and being in Lisle-street, Leicester-fields, in the said county of Middlesex, to have and to hold (1) *the said messuage or dwelling-house, with the appurtenances, together with the said furniture therein* from the said sixteenth of January, in the year last aforesaid, for and during, and unto the full end and term of three whole years then next ensuing, and so from year to year for so long time as it would please the said Edward and H. A. yielding and paying therefore unto the said Edward yearly and every year during (2) *such time as the said H. by virtue of that demise should have and occupy the said messuage or dwelling-house, with the said furniture therein*, at they early rent or sum of one hundred pounds of lawful, &c. payable, &c. *to be paid* quarterly, *that is to say*, on the sixteenth of April, the sixteenth of July, the sixteenth of October, and the sixteenth of January, in each and every year, by even and equal portions, by virtue of which said demise the said H. afterwards, *to wit, on the said sixteenth of January, in the year last aforesaid*, entered into the said demised messuage or dwelling-house, and was thereof possessed until and upon the sixteenth of January, A. D. 1788; and the said Edward saith, that one hundred pounds (3), and for *one year's rent* ended on the day and year last aforesaid, became due and in arrear, and unpaid from the said H. to the said Edward; and whereas the said James and Matthew afterwards, to wit, on the twenty-sixth of January, in the year last aforesaid, at, &c. they the said J. and M. then being sheriff of the county of Middlesex, by virtue and on pretence of his majesty's writ of *fi. fa.* directed to the said J. and M. as sheriff of the county of Middlesex, *against the said H. before that time sued and prosecuted* at the suit of one J. B. out of the court of our said lord the king, before the king himself (*the said court then and still being at Westminster aforesaid, in the county aforesaid*) on a certain judgment against the said H. at the suit of the said J. in the said court of our said lord the king, before

(1) "same unto the said H. A."

(2) "the said term unto the said Edward,"

(3) "of the rent aforesaid, for one year of the said term,"

before the king himself, before that time had and obtained, (4) took (4) “ and directed to the sheriff of the said county of Middlesex,”
the goods and chattels of the said H. then being in the said (5) rected to the sheriff of the said county of Middlesex,”
demised messuage or dwelling-house to the value of one hundred (5) “ last-mentioned premises,”
pounds: And the said Edward further saith, that after the taking (6) “ by pretence of the said last-mentioned writ,”
of the said goods and chattels (6) by the said J. and M. thereof (7) “ last-mentioned,”
as aforesaid, by pretence of the said writ, and before the removal hereof, that is to say, on the thirtieth of January, in the year last fore-
said, the said Edward, at Westminster aforesaid, in the county aforesaid, gave notice to the said J. and M. (7) so then being sheriff as aforesaid, of the aforesaid rent so being due and in ar-
rear to the said Edward from the said H. and then and there requested and required the said J. and M. (8) “ his last-mentioned”
the said Edward might be paid (8) the said one hundred pounds, the rent so due and in arrear to the said Edward as aforesaid, before
the said goods and chattels so taken and seized by the said J. and M. (9) “ of the said one hundred pounds, the rent last aforesaid, so due and owing to the said Edward, have not paid the same or any part thereof to the said Edward,”
as sheriff as aforesaid, under pretence of the said writ of *fi. fa.* or any part thereof, should be removed from and out of the said messuage or dwelling-house so demised as aforesaid; yet the said J. and M. (10) “ they the said, &c.”
so then being sheriff of the said county of Middlesex as aforesaid, not regarding the aforesaid statute in such case made and provided, but contriving and fraudulently intending, craftily and subtilly to receive and defraud the said Edward (9) in this respect, although (9) “ of the said one hundred pounds, the rent last aforesaid, so due and owing to the said Edward, have not paid the same or any part thereof to the said Edward,”
then requested, did not pay or cause to be paid to the said Edward (10) “ they the said, &c.”
the said sum of one hundred pounds, the rent so due and in arrear to the said Edward as aforesaid, or any part thereof, or anywise content him for the same, but on the contrary thereof the said J. and M. (10) “ they the said, &c.”
as sheriff as aforesaid, afterwards, that is to say, on the same day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, (10) took, removed, and carried away the said goods and chattels from and out of the said demised messuage or dwelling-house, the said sum of one hundred pounds, the rent so due and in arrear to the said Edward as aforesaid, being then and there wholly in arrear and unpaid, contrary to the form and effect of the statute in such case made and provided]. [2d Count as in the notches, leaving out the words in the Italic and inserting those in the margin]; wherefore the said Edward saith that he is injured, and hath sustained damage to the value of two hundred pounds; and therefore he brings his suit, &c. Pledges, &c.

LONDON, to wit. Joseph Howell who sues as well for our Declaration on
sovereign lord the now king as for himself in this behalf, com- Stat. G. 2. c 26.
mons of Henry Morris being, &c. in a plea that he render to our for preventing
said lord the now king and the said Joseph, who sues as aforesaid, frauds in gold
twenty pounds of lawful money of Great Britain, which he owes to and silverwares,
the said sovereign lord the now king and to the said Joseph, who against a person
as aforesaid, and unjustly detains from them: For that whereas for making and
the said Henry being a person trading and dealing in gold wares, selling ware, not
on the twenty eighth day of May, which was in the year of Our of a sufficient
lord 1739, and before the day of exhibiting of the bill of the said fineness.

Joseph,

Joseph, who as well, &c. to wit, on the day of A. D. 1754, at London aforesaid, to wit, in the parish of St. Mary-le-Bow, in the ward of Cheap, not regarding the statute in such case made and provided, nor fearing the penalty therein contained, made and caused and procured to be made eleven gold rings, containing together in weight two ounces and seven pennyweights, of a less fineness than twenty-two carats of pure gold in every pound weight troy, to wit, of the fineness of only twenty carats of pure gold in every pound weight troy, against the form of the statute in such case lately made and provided; whereby and by force of the statute in such case lately made and provided, an action hath accrued to our lord the now king and to the said Joseph, who sues as aforesaid, to demand and have of and from the said Henry for his said offence, for our said lord the now king and the said Joseph, who as well, &c. the sum of ten pounds, parcel of the said sum of forty pounds above demanded: [the 2d Count was for selling the rings to one Gabriel Holland; the 3d and 4th Counts were for another offence of the same nature].

Declaration in debt, by the proprietor of a print, for publishing the said print without proprietor's consent. Counts engraving and publishing.

LONDON, to wit. Edmund Scott complains of Joseph Palmer being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself: For that whereas the said Edmund, after the twenty-fourth day of June 1777, mentioned in a certain act of parliament, made and passed in a certain parliament holden at Westminster, in the county of Middlesex, in the seventeenth year of the reign of his said present majesty, entitled, "An Act for more effectually securing the Property of "Prints to Inventors and Engravers, by enabling them to sue "for and recover Penalties in certain Cases," to wit, on the first day of April, in the year of Our Lord 1789, and before was and from thenceforth hitherto hath been and still is the true and lawful proprietor of a certain print which had been engraved in Great Britain, that is to say, a certain print purporting to be the print of a certain conversation called, His Majesty's happy Interview with the Queen and Princess Amelia; and during all the time aforesaid had and was lawfully entitled to, and still has and is lawfully entitled to the sole right and liberty of printing and reprinting the said print, to wit, at London aforesaid, in the parish of St. Mary-le-Bow, in the ward of Cheap; yet the said Joseph well knowing the premises, but not regarding the statute in such case made and provided, but contriving and intending to injure the said Edmund, so being such proprietor of the said print aforesaid, whilst he was such proprietor of the said print, and after the said twenty-fourth day of June 1777, mentioned in the said act of parliament, so made in the seventeenth year of his present majesty as aforesaid, but within that time limited by a certain other act of parliament in the said afore-mentioned parliament specified, that is to say, a certain act of parliament, made in the seventh year of the reign of his present majesty, entitled, "An Act to amend an

"rende

for more effectually an Act made in the eighth Year of the
 of King George the Second, for Encouragement of the
 of Designing, Engraving, and Etching Historical and
 Prints," and for vesting in and securing to Jane Hogarth,
 the property in certain prints, to wit, on the said first day
 1, A. D. 1789, aforesaid, at, &c. aforesaid, he the said
 did engrave, and cause and procure to be engraved the said
 hereinbefore mentioned, whereof the said Edmund was and
 proprietor as aforesaid; and afterwards, to wit, on the
 day and year last aforesaid, and on divers other days and
 between that day and the day of exhibiting the bill of the said
 against the said Joseph, at, &c. aforesaid, did publish,
 dispose of, and cause and procure to be published, sold,
 disposed of divers, to wit, copies of the said print, with-
 consent of the said Edmund for that purpose first had and
 in writing, signed by him the said Edmund with his own
 the presence of and attested by two or more credible wit-
 contrary to the form of the said afore-mentioned act of
 parliament; whereby and by means of the committing of which
 wrongs by the said Joseph, the said Edmund has been and
 much damaged, injured, and prejudiced in his property of
 said print, whereof he the said Edmund was and is such
 proprietor as aforesaid, and has lost and been deprived of divers
 gains and profits which he would otherwise have acquired by
 selling and selling of the said print, to wit, at, &c. afore-
 said the said Edmund in fact further says, that the said Jo- 2d Count.
 seph knowing the premises aforesaid, but not regarding the
 law such case made and provided, and further contriving and
 doing to injure the said Edmund, so being such proprietor of
 said print as aforesaid, whilst he the said E. was such proprietor
 of said print, and after the twenty-fourth day of June 1777,
 and in the said act of parliament so made in the seventeenth
 year of the reign of his said present majesty as aforesaid; but
 the time limited by the said other act of parliament made in
 the year of the reign of his present majesty, to wit, on the
 day of April, in the said year of Our Lord 1789, afore-
 said, &c. aforesaid, *he the said Joseph did engrave, and cause
 to be engraved in part the said print hereinbefore men-
 tioned of the said Edmund was and is such proprietor as
 proprietor, and afterwards, to wit, on the same day and year last
 said, and on divers other days and times between that day
 day of exhibiting the bill aforesaid, at, &c. aforesaid, did
 sell, and dispose of, and cause and procure to be pub-
 lished, and disposed of divers, to wit, copies, in part of
 said print, without the content of the said Edmund for that
 purpose first had and obtained in writing, signed by him the said
 Joseph with his own hand, in the presence of and attested by two
 credible witnesses, contrary to the form of the said first-
 said act of parliament; whereby and by reason and means of
 committing of which said last-mentioned grievance by the said
 VII. U Joseph,*

Joseph, the said Edmund has been and is very much damaged, injured, and prejudiced in his property of and in the said print, whereof he the said Edmund was and is such proprietor as aforesaid, and has lost and been deprived of divers great gains and profits which he would otherwise have gained by the printing and selling of the said print, to wit, at L. in the parish and ward aforesaid: [3d Count, for etching and working, and for publishing, selling, and disposing in the whole; 4th Count, for the same in part; 5th Count, for copying in the whole; 6th Count, for the same in part; 7th Count, for printing in the whole; 8th Count, for same in part; 9th Count, for publishing in the whole, leaving out the words in Italics in the 2d Count; 10th Count, for same in part, leaving out the same; 11th Count, for selling and disposing, leaving out same; 12th Count, for same in part, leaving out same; to the damage of the said Edmund of , and therefore, &c. pledges, &c.

Drawn by MR. TIDD.

Declaration for
letting post-
horses to hire
without being
licensed, on stat.
25. Geo. 3. c.
51. s. 4.

MIDDLESEX, to wit. George Stewart, who sues as well for our sovereign lord the king as for himself in this behalf, complains of William Paminter being, &c. of a plea that he render to our said lord the now king and to the said George, who sues as aforesaid, the sum of two hundred pounds of lawful, &c. which he owes to and unjustly detains from them; for that the said William being a person required to be licenced by a certain act of parliament made and passed in the twenty-fifth year of the reign of his present majesty, entitled, "An Act for repealing the Duties on
" Licences taken out by Persons letting Horses for the Purpose of
" travelling Post, and by Time, and on Stage Coaches, and for
" granting other Duties in lieu thereof, and also additional Duties
" on Horses let to Hire for travelling Post and by Time," did, after the making of the said act of parliament, and after the first day of August 1785 therein mentioned, and within the space of six calendar months next before the commencement of this suit, to wit, on the sixth day of July A. D. 1788, at Westminster, in the county of Middlesex aforesaid, let out to hire divers, to wit, two horses by the mile, without being authorised or enabled so to do, in the manner presented in and by the said act of parliament, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in that case made and provided, the said William forfeited for his said offence the sum of ten pounds of lawful, &c. to wit, at, &c. aforesaid, and thereby and by force of the said statute an action hath accrued to the said George, who sues as aforesaid, to demand and have for our said lord the king, and for himself in this behalf, of and from the said William, the said sum of ten pounds so forfeited as aforesaid, parcel of the said sum of two hundred pounds above demanded: And the said George, who sues as aforesaid, further says, that the said William being a person required to be so licensed as aforesaid, did after the making of the said act of parliament, and after the said

1st day of August 1785 therein mentioned, and within the space of six calendar months next before the commencement of this suit, to wit, on the sixth day of July, A. D. 1788, at, &c. the said defendant, let out for hire divers, to wit, two horses by the stage, without being authorised or enabled so to do, in the manner prescribed in and by the said act of parliament, contrary to the form and effect of the statute in such case made and provided; whereby and by the force of the said statute an action hath accrued to the said plaintiff, who sues as aforeaid, to demand and have for our said lord the king, and for himself in this behalf, of and from the said defendant the said last-mentioned sum of ten pounds, so forfeited as aforeaid, other parcel of the said sum of two hundred pounds above demanded: [3d Count, for letting five horses by the mile; 4th Count, for letting five horses by the stage; 5th Count, for letting two horses to draw a chaise for a day; 6th Count, for letting the same for a less period than a day; 7th Count, for letting same for a less period than a day; 8th Count, for letting same for a less period than a day; 9th Count, for letting two horses by the mile; 10th Count, for letting two horses by the stage; 11th Count, for letting two horses by the mile; 12th Count for letting two horses by the stage; 13th Count, for letting two horses to draw a chaise for a day; 14th Count, for same, for a less period than a day; 15th Count, for letting two horses by the mile; 16th Count, for letting two horses by the stage; 17th Count, for letting two horses by the stage; 18th Count, for letting two horses by the stage]: yet the said William, although often requested, &c. hath not as yet paid the said sum of two hundred pounds above demanded, or any part thereof, to our said lord the king and the said George, who sues as aforeaid, or to either of them; but he to do this hath hitherto wholly refused, and still refuses so to do, to the damage of the said plaintiff, who sues as aforeaid, and therefore as well for our said lord the king as for himself in this behalf he brings suit, &c. &c.

In the case of the king against Andrew T. R. 69, it was determined, that the letting of a horse to hire is **not** the purpose of going upon business from one town to another, and back in the compass of a day's journey,

is not a letting for the purpose of travelling post within the statute.—The words *travelling post* in the act are to be construed according to the popular acceptance of them.

MIDDLESEX, to wit. John Sargent, who sues as well for our said sovereign lord the king as for himself in this behalf, complains against William Williams being, &c. of a plea that he render to our said lord the king and to the said John, who sues as aforeaid, the sum of ten pounds, which he owes to and unjustly detains from the said John; for that the said William being a postmaster, and person

Declaration against a postmaster for letting a horse out to hire without paying the duty, &c.

licensed to let out horses to hire for the purpose of travelling post by the mile, and from stage to stage, on the first day of October, A. D. 1788, at Westminster, in the county of Middlesex aforesaid, did let to hire to one Charles Cooper, a certain horse by the stage, to be used in travelling post, that is to say, to travel and go from London to Barnet, in the county of Herts, and from thence back again to L. aforesaid, being the distance of divers, to wit, twenty-four miles, on the same day and year aforesaid, and which said horse was accordingly used by him the said C. C. to wit, at, &c. aforesaid, nevertheless the said William not regarding the statute, &c. nor fearing the penalties therein contained, did not nor would by himself or his servants, previous to the using of such horse, ask, demand, or receive for the use of his majesty, of or from the said C. C. the sum of one penny halfpenny per mile for each mile such horse was so hired to travel and go, or any other sum of money whatsoever; but wholly neglected so to do, contrary to the form of the statute, &c. whereby, and by force of the statute in that case, &c. the said William forfeited for his said offence the sum of ten pounds of lawful, &c. to wit, at, &c. aforesaid, and thereby and by force of the same statute an action hath accrued to the said John, who sues as aforesaid, to demand and have for our said lord the king and for himself in this behalf, of and from the said William, the said sum of ten pounds so forfeited as aforesaid and above demanded; yet the said William, although often requested, &c. hath not as yet paid the said sum of ten pounds above demanded, or any part thereof, to our said lord the king and the said John, who sues as aforesaid, or to either of them; but to pay the same, or any part thereof, to them or either of them he the said William hath hitherto wholly refused, and still doth refuse, to the damage of the said John, who sues as aforesaid, of ten pounds, and therefore as well for our said lord the king as for himself in this behalf he brings suit, &c.

Drawn by MR. TIDD.

Declaration against a toll gate keeper, for refusing to deliver gratis a check ticket in exchange for a certificate, according to stat. 25. Geo. 3. c. 51.

MIDDLESEX, to wit. George Stewart, late of Westminster, in the county of Middlesex, yeoman, was attached to answer unto John Thomas, who sues as well for our sovereign lord the king as for himself in this behalf, of a plea that he render to our said lord the king and the said John, who sues as aforesaid, the sum of forty pounds of lawful, &c. which he owes to and unjustly detains from them, &c.; and thereupon the said John, who sues as aforesaid, by R. W. his attorney, complains; that whereas the said John after the making of a certain act of parliament made and passed in the twenty-fifth year of the reign of his present majesty, and intitled, "An Act for repealing the Duties on Licences taken out by Persons letting Horses for the Purpose of travelling Post, and on Horses let to Hire for travelling Post, and by Time, and on Stage Coaches, and for granting other Duties in lieu thereof; and also additional Duties on Horses let to Hire for travelling Post, and by Time," to wit,

the thirty-first day of July, A. D. 1788, at Westminster, in the county of Middlesex, did let to hire to one Cook, esquire, two days, divers, to wit, two horses, for drawing a public road a certain carriage, commonly called a post being a carriage in respect whereof certain rates or duties and at the time of making the said act of parliament, under management of the commissioners of excise, had been and are reserved and made payable, and did thereupon then and then deliver to the said Cook, a certain note or certificate for more days, being the note or certificate in that behalf required in and by the said act of parliament, properly filled up, as by the said act of parliament is directed, to wit, at, &c. and although the said Cook did afterwards, to wit, the said George, deliver to the said George, the toll-gate keeper at a certain turnpike on a certain public road leading from the city of Westminster to , being the first place where toll was by law collected, through which the said carriage did pass with the said horses; and although the said George, such toll-keeper as aforesaid, did then and there receive the said note or certificate of and from the said Cook, and did receive the said G. to deliver, gratis, to him the said Cook in respect of such note or certificate, a ticket called the check ticket, the ticket in that behalf requested in and by the said act of parliament, according to the directions of the said act of parliament; the said George not regarding his duty in this behalf, nor the said act of parliament, nor fearing the penalties contained, did not, when he was so requested as aforesaid deliver, gratis, such ticket as aforesaid, but wholly refused and neglected so contrary to the form of the statute in that case made and provided; whereby and by force of the statute in that case made provided, the said George forfeited for his said offence the sum of forty shillings: and thereby and by force of the said statute he hath accrued to the said John, who sues as aforesaid, to have for our said lord the king and for himself in this behalf and from the said George, the said sum of forty shillings as aforesaid and above demanded; yet the said George, often requested, &c. hath not as yet paid the said sum of shillings above demanded, or any part thereof, to our said lord the king and the said John, who sues as aforesaid, or to either of them; but to pay the same, or any part thereof, to them or of them he the said George hath hitherto wholly refused, refuses so to do, to the damage of the said John, who sues the said, of five pounds, and therefore as well for our said lord the king as for himself in this behalf he brings

Counts on the
post-horse act,
25. Geo. 3. c.
51. for letting
out horses to
travel post, &c.
without a li-
cense, on l. 6.

FOR that the said defendant, after the said first day of August, A. D. 1785, and within six calendar months next before the exhibiting the bill of the said plaintiff, to wit, on the fifteenth day of January, A. D. 1789, at Watford, in the said county of Herts, did let out by the mile and for hire divers, to wit, two horses to one P. R. for the purpose of travelling post by the mile, that is to say, from Watford aforesaid, in the county aforesaid, to a certain place called Sarrot's Green, in the same county, he the said defendant at the time of letting out the said horses to and for hire as aforesaid, not having a license so to do from two or more of his majesty's commissioners appointed for managing the duties arising by stamps on vellum, parchment, or paper, nor from any person or persons duly authorized by them, nor being in any manner licensed, authorized, or enabled to let out the said horses to and for hire as aforesaid, contrary to the form of the statute in such case made and provided; whereby and by force of the statute, &c. an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant for his said offence ten pounds of lawful, &c. parcel of the said sum of seven hundred and ninety-four pounds above demanded.

In not deliver-
ing to the per-
son hiring the
horses a stamp-
office ticket,
and properly
filled up, on l.
15.

And also, for that whereas the said afterwards, and after the first day of August, A. D. 1785, and within six calendar months next before the exhibiting the bill of the said plaintiff, to wit, on the said fifteenth day of January, in the said year of Our Lord 1789, at, &c. aforesaid, he the said defendant being then and there an innkeeper, and being then and there, according to the form of a certain act of parliament made and passed in the twenty-fifth year of the reign of his present majesty, entitled, "An Act
" for repealing the Duties on Licenses taken out by Persons
" letting Horses for the Purpose of travelling Post, and on Horses
" let to Hire for travelling Post, and by Time, and on Stage
" Coaches; and for granting other Duties in lieu thereof, and
" also additional Duties on Horses let to Hire for travelling Post,
" and by Time," duly licensed to let out horses for hire for the purpose of travelling post by the mile, did let by the mile to the said P. R. to and for hire divers, to wit, two other horses to be used in travelling post by the mile, that is to say, from W. aforesaid, in the county aforesaid, to a certain place called Sarrot's Green, in the same county, and did then and there receive payment of the duty by reason thereof due and payable for the said last-mentioned horses, by virtue of the said act of parliament, of and from the said P. R.; yet the said defendant did not by himself, or his servant or servants, at the same time he received payment of the said duty for the said last-mentioned horses as aforesaid, or at any other time whatsoever, deliver or cause to be delivered to the said P. R. a stamp-office ticket filled up with the name of his the said defendant's sign or house, but wholly neglected and omitted so to do, contrary to the form of the statute in such case made and provided.

led, whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the king and the plaintiff, who sues as aforesaid, to demand and have of and from said defendant for his said last mentioned offence, other ten pounds, further parcel of the said sum of one hundred and ninety-pounds above demanded.

and also, for that the said defendant afterwards, and after the day of August, A. D. 1785, and within six calendar months before the exhibiting the bill of the said plaintiff, to wit, on said fifteenth day of January, in the said year of Our Lord, at, &c. aforesaid, he the said defendant being then and according to the form of the said act of parliament, duly did let out horses for hire, for the purpose of travelling by the stage, did let by the stage to a certain traveller, to wit, to the said P. R. to and for him divers, to wit, two other horses to be used in travelling post by the stage, that is to say, from aforesaid, in the county aforesaid, to a certain place called King's-Langley, in the same county; and did then and there, to wit, at W. aforesaid, insert in a certain other ticket, by the said act directed to be issued to such traveller, and by the said defendant then and there delivered to the said P. R. the name of Sarret and for the place to which the said last-mentioned horses were hired to go, being the name of another place than the place to which the said last-mentioned horses were actually hired to go aforesaid, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant for his said last-mentioned offence, other ten pounds, further parcel of the said sum of seven hundred and ninety-four pounds above demanded.

For inserting in the ticket another place than that to which the horses were hired to go, on £ 17.

and also, for that whereas the said defendant afterwards, and after the first day of August, A. D. 1785, and within six calendar months next before the exhibiting the bill of the said plaintiff, to wit, on the said fifteenth day of January, in the said year of Our Lord 1789, at, &c. aforesaid, he the said defendant being then and according to the form of the said act of parliament, duly did let out horses for hire, for the purpose of travelling post by the mile, did let by the mile to a certain traveller, to wit, to the said P. R. to and for hire divers, to wit, two horses to be used in travelling post by the mile, that is to say, from W. aforesaid, in the county aforesaid, to a certain place called King's Langley, in the same county, and did then and there charge the said P. R. six miles for the same; yet the said defendant did then and there insert in a certain other ticket, by the said act directed to be issued to such traveller, and by the said defendant then and there delivered to the said P. R. fill up a less number of miles than the number so directed to the said P. R. that is to say, six miles and no more,

In filling up the ticket with a less number of miles, on the same section.

contrary to the form of the statute in such case made and provide whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant other ten pounds, further parcel of the said sum of seven hundred and ninety-four pounds above demanded.

In not entering the ticket in the defendant's weekly account on the day it was issued, on
l. 24.

And also, for that whereas the said defendant afterwards, after the first day of August, A. D. 1785, and within the six calendar months next before the exhibiting of the bill of the said plaintiff, to wit, on the said thirtieth day of January, in the said year of Our Lord 1789, at, &c. aforesaid, he the said defendant being then and there, according to the form of the said act of parliament, duly licensed to let out horses to hire for the purpose travelling post by the mile, did let by the mile to a certain traveller to and for hire divers, to wit, two other horses to be used in travelling post by the mile, that is to say, from W. aforesaid in the county aforesaid, to a certain place called Two Waters, the same county, and did then and there receive payment of the duty by reason thereof due and payable for the said last-mentioned horses by virtue of the said act, and deliver or cause to be delivered to the said last mentioned traveller, at the same time he the said defendant received payment of the said last-mentioned duty, a certain posting ticket; yet the said defendant did then and there date the said last-mentioned ticket in another and different manner than as the same was at the time of the delivery thereof as aforesaid entered into the weekly account of him the said defendant, by the said act directed to be kept, that is to say, did then and there date the said last-mentioned ticket the thirtieth day of January 1788, whereas the said last-mentioned ticket at the time of the delivery thereof as aforesaid, was entered in the weekly account of him the said defendant, by the said act directed to be kept, as of the thirty-first day of January 1789, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant for his said last-mentioned offence forty shillings, further parcel of the said sum of seven hundred and ninety-four pounds above demanded.

For making a false account as to the money received for the duty, with intent to defraud his majesty, on
l. 30.

And also, for that whereas the said defendant afterwards, after the first day of August, A. D. 1785, and within six calendar months next before the exhibiting the said bill of the said plaintiff, to wit, on the fifteenth day of January, A. D. 1789, at aforesaid, in the county of Herts, he the said defendant then there, and continually from thenceforth hitherto being duly licensed, according to the form of the said act of parliament, to let out horses for hire for the purpose of travelling post by the mile, did let by the mile to the said P. R. to and for hire divers, to

two other horses to be used, and which were then and there used in travelling post by the mile, that is to say, from W. aforesaid, in the said county of Herts, to a certain place called King's-Langley, in the said county, being the distance of divers, to wit, nine miles, and did then and there receive payment of a large sum of money, to wit, the sum of two shillings and threepence, as and for the duty by reason thereof due and payable for the said last-mentioned horses, by virtue of the said act, and imposed thereby; yet the said defendant afterwards, to wit, on the eighteenth day of January, in the year last aforesaid, at W. aforesaid, in the said county of H. with an intent to defraud his majesty of part of the said last-mentioned duty, to wit, of the sum of ninepence, parcel thereof, did make and sign a certain account, purporting to be the stamp-office weekly account required by the said act to be made, and including the said day of the said last-mentioned hiring, which same account was false in this, that the said defendant thereby charged himself with the receipt of one shilling and sixpence, and no more, in respect of the duty upon the said last-mentioned hiring, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided, an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant for his said last-mentioned offence, other fifty pounds, further parcel of the said sum of seven hundred and ninety-four pounds above demanded.

And also, for that whereas the said defendant afterwards, and after the first day of August, A. D. 1785, and within six months next before the exhibiting the bill of the said plaintiff, to wit, on the fifteenth day of January, A. D. 1789, at, &c. aforesaid, in the said county of H. he the said defendant then and there, and continually from thenceforth hitherto, being duly licensed, according to the form of the said act of parliament passed in the twenty-fifth year of his present majesty's reign, to let out horses to hire for the purpose of travelling post by the mile, did let by the mile to the said P. R. to and for hire divers, to wit, two other horses to be used, and which were then and there used in travelling post by the mile, that is to say, from a certain place called Sarret's Green, in the said county of H. to a certain other place called King's Langley, in the said county, and did then and there receive payment of a large sum of money, to wit, the sum of ninepence, as and for the duty by reason thereof due and payable for the said last-mentioned horses, by virtue of the said last-mentioned act, and imposed thereby; yet the said defendant afterwards, to wit, on the eighteenth day of January, A. D. 1789, at, &c. aforesaid, in the said county of H. with an intent to defraud the said plaintiff of the said last-mentioned duty, he the said plaintiff then and there such farmer and collector as aforesaid, did make and sign a certain other account, purporting to be the stamp-office weekly account required by the said act, made in the twenty-fifth

In making a false account as to the number of horses, on the same fact.

fifth year of his present majesty's reign, to be made and included in the said day of the said last-mentioned hiring, which said last-mentioned account was false in this, that the number of horses used as aforesaid, under the said last-mentioned hiring, was not inserted therein, contrary to the form of the statute in such case made and provided; whereby and by force of the statute in such case made and provided; an action hath accrued to our said lord the king and the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant, for his said last-mentioned offence, other fifty pounds, further parcel of the said sum of seven hundred and ninety-four pounds above demanded.

Declaration in debt for publishing and exposing to sale a publication called Trusler's Chronology, without the consent of the proprietor, and contrary to the statute.

LONDON, to wit. John Trusler, who sues as well for our sovereign lord the king as for himself in this behalf, complains of John Murray being, &c. of a plea that he render to our sovereign lord the king and to him the said plaintiff, who sues as aforesaid, the sum of fifty pounds of lawful money, &c. which he owes to and unjustly detains from them: For that whereas in the day of in the year of Our Lord 1782, at, &c. the said plaintiff was, and from thence hitherto hath been, and still is the author and proprietor of a certain book entitled Trusler's Chronology; and being such author and proprietor of the said book as aforesaid, he the said plaintiff, on the same day and year aforesaid, at, &c. aforesaid, did enter his title to the copy of such book in the register book of the company of Stationers, according to the form of the statute in such case made and provided, and afterwards, to wit, on, &c. aforesaid, at, &c. aforesaid, did publish the same; yet the said defendant, well knowing the premises, but not regarding the statute, &c. nor fearing the penalties therein contained, within fourteen years next after such publication as aforesaid, and also within three months next before the exhibiting of the bill of the said plaintiff, who sues as aforesaid, against the said defendant, to wit, on the day of , in the year of Our Lord 1788, at, &c. aforesaid, without the consent of the said plaintiff first had and obtained in writing, signed in the presence of two or more credible witnesses, did publish and cause to be published divers, to wit, three hundred books, entitled, The Historian's Pocket Dictionary, similar to and in substance resembling the said book of the said plaintiff, which said book so published and caused to be published by the said defendant as aforesaid, had been theretofore printed and caused to be printed without such consent of the said plaintiff first had and obtained as aforesaid; and the said defendant well knowing that the same had been so printed as aforesaid, and which said last-mentioned books were then and there found published in the custody of the said defendant, and then and there consisted of divers, to wit, six hundred sheets, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute an action hath accrued to the said plaintiff who sues as aforesaid, to demand and have as well for our said sovereign

vereign lord the king as for himself in this behalf, of and from the said defendant, the sum of twenty five pounds, being one penny for every sheet of the said book so published and caused to be published as aforesaid, parcel of the said sum of fifty pounds above demanded: And whereas on the said day of , in the year of Our Lord 1782 aforesaid, at, &c. aforesaid, the said plaintiff was, and from thence hitherto hath been, and still is the author and proprietor of a certain other book entitled Trusler's Chronology, and being such author and proprietor of the said last-mentioned book as aforesaid, he the said plaintiff, on, &c. last aforesaid, at, &c. aforesaid, did enter his title to the copy of such last-mentioned book, in the register book of the company of Stationers, according to the form of the statute, &c.; and afterwards, to wit, on, &c. last aforesaid, &c. aforesaid, did publish the same; yet the said defendant, well knowing the premises last aforesaid, but not regarding the statute, &c. nor fearing the penalties therein contained, within fourteen years next after such publication as last aforesaid, and also within three months next before the exhibiting of the bill, &c. to wit, on the said day of , in the year of Our Lord 1788 aforesaid, &c. aforesaid, without the consent of the said plaintiff first had and obtained in writing, signed in the presence of two or more credible witnesses, did expose to sale, and caused to be exposed to sale divers, to wit, three hundred books, entitled, The Historian's Pocket Dictionary, similar and in substance resembling the said book of the said plaintiff, which said last mentioned books so exposed to sale, and caused to be exposed to sale by the said defendant as aforesaid, had been heretofore printed and caused to be printed without such consent of the said plaintiff first had and obtained as aforesaid, and the said defendant then and there well knowing that the same had been printed as aforesaid, and which said last-mentioned books were then and there found exposed to sale in the custody of the said defendant, and then and there consisted of divers, to wit, six hundred sheets, contrary to the form of the statute, &c.; whereby and by force of the said statute an action hath accrued, &c. &c. [as in First Count] the sum of twenty-five pounds, being one penny for every sheet of the said last-mentioned books so exposed to sale, caused to be exposed to sale as aforesaid, residue of the sum of fifty pounds above demanded; yet the said defendant, although requested, &c. hath not rendered the said sum of fifty pounds above demanded, or any part thereof, to our said sovereign lord the king and the said plaintiff, who sues as aforesaid, or to either of them, but to render the same or any part thereof to them neither of them, he the said defendant hath hitherto wholly refused, and still refuses so to do, to the damage of the said plaintiff, who sues as aforesaid, of ten pounds; and therefore as well for our sovereign lord the king as for himself in this behalf, he brings &c. Pledges, &c.



Drawn by Mr. TIDD.

AND

Declaration in debt for a penalty under the post-office act, against a common carrier, for conveying letters for hire and reward, contrary to the statute.

AND the said Joseph, who sues as aforesaid, further says, *th* after the making of the said act of the said ninth year of the said late queen, to wit, on the said first day of June, in the said *ann domini* 1751. mentioned in the said act, such general letter, office and post-office, as in the said act is mentioned, was erected and established in a convenient place in the city of London, for the purposes in the said act mentioned, and from thence hitherto there hath been and still is from time to time appointed, made, and constituted such post-master general, in manner and for the purposes in the said act mentioned: And the said Joseph, who sues as aforesaid, further says, that the said Thomas, on the fourteenth day of November, A. D. 1761, was, and from thence hitherto has been, and still is a common carrier, and as such hath been during all that time used and accustomed to carry goods from Preston, in the county of Lancaster aforesaid, to Wiggan in the same county, and from Wiggan aforesaid to Preston aforesaid for hire and reward, and that the said Thomas, so being such common carrier as aforesaid, not regarding the statute in such case made and provided, not fearing the penalties therein contained, did, after the said first day of June A. D. 1749 aforesaid, to wit, on the said fourteenth day of November A. D. 1761, at Preston aforesaid, in the county of Lancaster aforesaid, presume to receive, and did receive of and from Henry Foster a letter directed to one John Rowbottom in Wiggan aforesaid, to be by him the said Thomas conveyed and carried from Preston aforesaid to Wiggan aforesaid, and there, to wit, at Wiggan aforesaid, to be delivered to the said John Rowbottom for hire and reward, then paid by the said Henry Foster to the said Thomas for the carriage thereof and delivery then and there, to wit, on the same day and year last aforesaid, to convey and carry the said letter from Preston aforesaid to Wiggan aforesaid, and there, to wit, at Wiggan aforesaid, did deliver the said letter to the said John Rowbottom, and the same letter not being a letter that did concern any goods in his cart or waggon, and on his packhorse, and the said letter not being a letter that is excepted by and within the meaning of any exception in the said act, so as the said Thomas might legally carry the same, but the said letter then and there being such a letter as the said Thomas could not carry in manner aforesaid, or otherwise without offending against the said act, and he the said Thomas not being a person qualified, according to the tenor of the said act, to carry such letters, contrary to the tenor and effect of the said statute in such case made and provided; whereby and by force of the statute in such case made and provided, the said Thomas forfeited for his said offence the sum of five pounds of lawful, &c. and whereby and by force of the said statute an action hath accrued to the said Joseph, who sues as aforesaid, to demand and have of and from the said Thomas, for our sovereign lord the lord the now king and for himself, the said Joseph, the sum of five pounds, parcel of the said sum of pounds above demanded.

HUNTINGDONSHIRE

HUNTINGDONSHIRE, to wit. **R. N.** late of, &c. and **F.** late of, &c. to answer **T. M.** clerk, in a plea of trespass on case, &c.; and thereupon the said **T.** by **J. B.** his attorney, complains: For that whereas one **F. B.** for a long time, to wit, the space of four years next before and ended on the fifth of **il 1762**, being the feast-day of the Annunciation of the Blessed Virgin Mary in the same year, according to the old style and computation of time used within this kingdom, and from thence and at the time of the committing the grievance by the said **ad A.** hereinafter next mentioned, held, occupied, and enjoyers, to wit, seventy-one acres of land, with the appurtenances of the said **T.** lying and being at **Elton**, in the said county of **Huntingdonshire**, under demise thereof theretofore made to the **F. B.** by the said **T.** at the yearly rent of twenty-five pounds shillings of, &c. payable to the said **T.** by the said **F.** half, to wit, at the feast of **St. Michael the Archangel**, and the Annunciation of the Blessed Virgin Mary, according to the old style by even and equal portions, and during all the time aforesaid the same of the said **T.** by virtue of the said demise, as tenant thereof at the rent aforesaid, payable as aforesaid: And the said **T.** further says, that eighty-eight pounds seventeen shillings and sixpence of the said rent due and payable by the said **F.** to the said **T.** for three years and a half of the said term ended at the feast of the Annunciation of the Blessed Virgin, in, &c. aforesaid, according to the said old style at that feast, and the time of committing of the grievance hereafter mentioned, were in arrear and unpaid from the said **F.** to the said **T.** the said eighty-eight pounds seventeen shillings and sixpence of the said rent so being in arrear and unpaid to the said **T.** as aforesaid: the said **T.** afterwards, on the fifteenth of **July 1762**, at the said **Elton**, in the county of **H.** aforesaid, during the said **F.**'s possession of the said demised premises, by virtue of the said demise, did distrain in and upon the said demised premises, with the appurtenances, certain growing corn, to wit, wheat and barley, peas, and beans of the said **F.** of the value of one hundred shillings, then and there growing and standing in and upon the said demised premises, with the appurtenances, for and in the name of the said **T.** for the said arrears of rent so then due, owing, and in arrear to the said **F.** to the said **T.** and then and there gave notice to the said **F.** and the said **T.** would have cut down, appraised, taken away, and sold the same when ripe and fit for being taken away, according to the form and directions of the statute, in that behalf made, in case the said arrears of rent had not in the mean time been paid to the said **T.** and which said arrear of rent, or any part thereof, have not nor hath been yet paid to him; yet the said **R.** well knowing all and singular the premises aforesaid, but nevertheless, unlawfully and fraudulently intending to deceive and defraud the said **T.** in this behalf, and to deprive him of the benefit of the said distress, afterwards and whilst the said corn and grain so reaped, and continued standing and growing in and upon the said demised premises, did unlawfully and fraudulently take away, sell, and dispose of the same, to the use and behoof of himself, his heirs, assigns, and of some other person or persons, to the great damage and prejudice of the said **T.** and against the justice of law.

Against a bailiff for taking goods under a fieri facias, which had been distrained by the plaintiff.

8. Ann, c. 14.

2d Count, for one year and a half being in arrear for 53 acres, &c. at 17l. 5 18 acres of other land at 8l. 5.

demised premises with the appurtenances under the said distress, to wit, on the first day of August 1762, at E. aforesaid, in the said county of Huntingdonshire, under colour and pretence of a certain writ of our lord the now king of *fieri facias* before then sued and prosecuted by the said A. out of the said court of our lord the now king of the bench against the said F. B. directed to the then sheriff of the county of H. for the levying of the goods and chattels of the said F. B. in the bailiwick of the said sheriff, a certain debt of four hundred pounds and eighty pounds, and of one hundred pounds for damage by reason of the detaining of that debt thereby supposed and alledged to have been recovered in the said, &c. by the said A. against the said T. of a certain warrant of R. C. esquire, then sheriff of the county of H. made by the said then sheriff upon the said writ, and for the execution thereof, directed to the bailiff of the liberty of N. in the county of H. and delivered to the said R. who then and long before was, and from thence hitherto hath been, and still is bailiff of the said hundred for execution, wrongfully, unjustly, unlawfully, and injuriously seized, cut down, took, and carried away all the said corn so growing upon the said demised premises, and so being under the said distress for the said arrear of rent as and for the goods and chattels of the said F. and sold the same in satisfaction of the said supposed debt and damages, and thereby wholly defeated the said distress, and prevented the said T. from cutting down, appraising, and selling the said corn, and every part thereof, under the said distress, and whereby the said T. there lost the whole benefit and advantage of his said distress, and the means of recovering and obtaining his said arrear of rent, to wit, at E. aforesaid: And whereas the said F. B. for a long time, to wit, for the space of four years next before and ended on the said fifth of April 1762, being the feast day of the Annunciation of the Blessed Virgin Mary in the same year, according to the said old style, and from thence and at the time of committing the grievance by the said R. and A. hereinafter next mentioned, held, occupied, and enjoyed divers, to wit, fifty-three acres of land, with the appurtenances of the said T. lying and being at E. aforesaid, in the county of H. under demise thereof theretofore made to the said F. B. by the said , at the yearly rent of seventeen pounds of, &c. payable to the said T. by the said F. half-yearly, to wit, at the feast of St. Michael the Archangel, and the Annunciation of the Blessed Virgin Mary, according to the said old style, by even and equal portions, and during all that time held the same of the said T. by virtue of the said last-mentioned demise, as his tenant thereof, at the rent last aforesaid, payable as last aforesaid: And whereas also the said F. B. for the space of one year and the half of another year next before and ended on the Feast of the Annunciation of the Blessed Virgin Mary, in the said year 1762 according to the said old style, and from thence until and at the time of committing the grievance hereafter next mentioned, held, occupied, and enjoyed divers, to wit, eighteen acres of other land

wit

the appurtenances of the said T. lying and being at E. afore-
 in the county aforesaid, under a demise thereof theretofore
 by the said T. to the said F. at the yearly rent of eight pounds
 shillings, payable to the said T. by the said F. at the said feast
 e-mentioned, by even and equal portions, during all that time
 the same of the said T. as his tenant thereof, at the rent last
 said, payable as last aforesaid: And the said T. further says,
 seventy-six pounds ten shillings of the rent of
 ur years and a half of the said term, and twelve pounds seven
 gs and sixpence of the said rent of eight pounds five shillings
 e year and a half of the other term, ended on the said feast of the
 nciation of the Blessed Virgin Mary 1762 aforesaid, accord-
 the said old style at that feast, and also at the time of the
 sitting of the grievance hereafter next mentioned were in
 and unpaid from the said F. to the said T. in the whole a-
 ting to the sum of eighty-eight pounds seventeen shillings
 pence, and the same being so in arrear and unpaid, he the
 afterwards, on the fifteenth of July 1762, at E. aforesaid,
 said county of H. during the said F.'s possession of the said
 entioned several and respective demised premises, by virtue
 said several and respective demises, took and distrained in and
 he said last-mentioned several demised premises, with the
 enances, to wit, on the said fifty-three acres of land, cer-
 heat, barley, oats, peas, and beans of the said F. of the
 of eighty pounds, then growing, standing, and being thereon,
 in the name of a distress for the said seventy-six pounds ten
 gs, and in the said eighteen acres of land, certain other
 , barley, oats, peas, and beans of the said F. of the value of
 7 pounds, then standing, growing, and being thereon, for and
 name of a distress for the said twelve pounds seven shillings
 pence, being the said arrear of rent respectively then due,
 , and in arrear from the said F. to the said T. amounting
 whole to the sum of eighty-eight pounds seventeen shillings
 pence, and the said T. then and there gave notice to the said
 the said T. would have cut down, appraised, taken away,
 d the same respectively in and towards satisfaction of the said
 mentioned arrears of rent respectively, according to the form
 ction of the statute, &c. when ripe and fit for being cut
 in case the said respective last-mentioned arrears of rent had
 in respectively in the mean time paid to the said T. and
 said respective last-mentioned arrears of rent have not, nor
 y part thereof been yet hitherto paid to him, yet the said
 A. well knowing all and singular the premises last afore-
 nt contriving and fraudulently intending to deceive and de-
 he said T. in this behalf, and to deprive him of the benefit
 id last-mentioned respective distress, afterwards, and while
 l corn and grain so respectively remained and continued
 g and growing in and upon the said last-mentioned respec-
 tresses, with the appurtenances, under the said respective
 tresses, to wit, on the said first of August 1762,
 at

other warrant of the said R. C. then sheriff of the court
aforesaid, made by the said then sheriff upon the said last-
ed writ, and for the execution thereof directed to the said
the said liberty of N. in the county of H. and delivered to
R. who then and long before was, and from thence hith-
been, and still is bailiff of the said hundred, for execution
fully, unjustly, unlawfully, and injuriously seized, cut down
and carried away all the said last-mentioned respective
growing upon the said last-mentioned several and respect-
mises, with the appurtenances, and so being under the said
tive last-mentioned distresses for the said last-mentioned se-
rears of rent as and for the goods and chattels of the said F.
the same towards satisfaction of the said supposed debt, and
wholly defeated the said last-mentioned respective distresses
preventing the said T. from cutting down, appraising, and
the said corn, and every part thereof, under the said last-mentioned
respective distresses, and whereby the said T. lost the whole
and advantage of his said last-mentioned respective distresses
means of recovering and obtaining his said last-mentioned re-

3d Count, on arrears of rent, to wit, at E. aforesaid: And whereas the said
another demise. for the space of one year and the half of another year next be-
ended on the feast of the Annunciation of the Blessed Virgin
1762 aforesaid, according to the said old style, from then
and at the time of committing the grievance by the said R.
hereinafter next mentioned, held, occupied, and enjoyed
to wit, seventy-one acres of land, with the appurtenances, of
T. lying and being at E. aforesaid, in the county of H.
demise thereof theretofore made to the said F. B. by the
at the yearly rent of twenty-five pounds five shillings of, i-
able to the said T. by the said F. at the feast of the Annu-
of the Blessed Virgin Mary and St. Michael the Archang-
according to the said old style, by even and equal portio-
during all that time held the same of the said T. by virtu-
said last mentioned demise as his tenant thereof at the

said, according to the said old stile of that feast, and also at the
 time of the committing of the grievance hereafter next mentioned,
 were in arrear and unpaid to the said T. from the said F. and the
 same so being in arrear and unpaid to the said T. as aforesaid, he
 the said T. afterwards, on the fifteenth of July 1762, at E. afore-
 said, in the county of H. and during the said F.'s possession of the
 said last-mentioned demised premises, by virtue of the said last-
 mentioned demise, took and distrained in and upon the said last-
 mentioned demised premises, with the appurtenances, certain grow-
 ing corn, to wit, wheat, barley, beans, peas, and oats of the said
 F. of the value of sixty pounds, then growing and being in and
 upon the said last-mentioned demised premises, with the appurte-
 nances, for and in the name of a distress for the said last-mentioned
 arrear of rent so then due, owing, and in arrear from the said F. to the
 said T. and the said T. then and there gave notice thereof to the said
 F. and the said T. would have cut down, appraised, taken, car-
 ried away, and sold the same when ripe and fit for being cut down,
 and towards satisfaction of the said last-mentioned arrears of rent,
 according to the form and direction of the statute, &c. in case the
 said last-mentioned arrears of rent had not been in the mean time
 paid and satisfied to the said T. and which said last-mentioned ar-
 rears of rent have not nor hath any part thereof yet been paid or
 satisfied to the said T.; yet the said R. and A. well knowing all
 and singular the premises last aforesaid, but contriving and fraudu-
 lently intending to deceive and defraud the said T. in this behalf,
 and to defeat him of his said last-mentioned distress, afterwards,
 and while the said last-mentioned corn and grain so remained and
 continued distrained standing in and upon the said last-mentioned
 premises, to wit, on the said first of August 1762 aforesaid, at E.
 aforesaid, under colour and pretence of a certain other writ of our
 said the now king of *fi. fa.* before then sued and prosecuted by the
 said A. out of the said court of our lord the now king of the bench,
 against the said F. B. directed to the said then sheriff of the said
 county of H. for the levying of the said goods and chattels of the
 said F. B. in the bailiwick of the said then sheriff, a certain other
 writ of four hundred and eighty pounds and of one hundred pounds
 and damages by reason of the detaining of that debt thereby suppos-
 ed and alledged to have been recovered in the said court by the
 said A. against the said F. and of a certain other warrant of the
 said R. C. then sheriff of the county of H. aforesaid, made by the
 said then sheriff upon the said last-mentioned writ, and for the
 execution thereof, directed to the bailiff of the said liberty of N.
 in the county of H. and delivered to the said Robert, who then
 long before was, and from thence hitherto hath been, and still
 bailiff of the said hundred, from execution, wrongfully, unjust-
 lawfully, and injuriously seized, cut down, took, and car-
 ried away all the said corn so growing upon the said last-mention-
 ed demised premises, and so being under the said last-mentioned
 distress for the said last-mentioned arrears of rent, as and for the
 said goods and chattels of the said F. and sold the same towards satis-
 faction

4th Count, stating more generally the distress and *feri facias* executed by the bailiff.

faction of the said supposed debt and damages, and thereby wholly defeated the said last-mentioned distress and prevented the said T. from cutting down, appraising, and selling the same under the said last-mentioned distress; whereby the said T. then took the whole benefit and advantage of his said last-mentioned distress, and the means of recovering and obtaining his said last-mentioned arrears of rent, to wit, at E. aforesaid: And whereas the said T. on the fifteenth of July 1762 aforesaid, at E. aforesaid, duly distrained in and upon certain other lands, to wit, seventy-one acres of other land of the said T. then in the tenure and possession of the said F. as tenant thereof to the said T. and lying and being at E. aforesaid, certain other corn, to wit, wheat, barley, peas, beans, and oats of the said F. of the value of one hundred pounds, then standing and growing in the said last-mentioned lands, for certain arrears of rent, to wit, for other eighty-eight pounds seventeen shillings and sixpence, then being in arrear and unpaid from the said H. to the said T. for the rent of the said last-mentioned lands, and would have cut down, appraised, taken, carried away, and sold the same when ripe and fit for cutting down, in and towards satisfaction of the said last-mentioned arrears of rent, in case the same had not in the mean time been paid to the said T. and which said last-mentioned arrears had not nor hath any part thereof yet been paid to the said T.; yet the said R. and A. well knowing the premises last aforesaid, but contriving and fraudulently intending to deceive and defraud the said T. in this behalf, and to deprive him of the benefit of the said last-mentioned distress, afterwards, and while the said corn so remained and continued standing and growing in and upon the said last-mentioned demised premises, with the appurtenances, under the said last-mentioned distress, to wit, on the said first of August 1762 aforesaid, at E. aforesaid, under colour and pretence of a certain other writ of our lord the now king of *fi. fa.* sued and prosecuted by the said A. out of the said court of our said lord the now king of the bench here against the said F. directed to the said then sheriff of the said county of H. for the levying of the said goods and chattels of the said F. B. in the bailiwick of the said sheriff, a certain other debt of four hundred and eighty pounds and one hundred pounds for damages, by reason of detaining of that debt thereby supposed and alledged to have been recovered in the said court by the said A. against the said F. and of a certain other warrant of the said R. C. then sheriff of the county of H. aforesaid, made by the said then sheriff upon the said last-mentioned writ, and for the execution thereof, directed to the bailiff of the said liberty of N. in the said county of H. and delivered to the said R. who then and long before was, and from thence hitherto hath been, and still is bailiff of the said hundred, for the execution wrongfully, unjustly, unlawfully, and injuriously seized, cut down, took, and carried away all the said corn so growing upon the said last-mentioned demised premises, and so being under the said last-mentioned distress for the said last-mentioned arrears of rent as and for the goods and chattels of the said F. and sold the same toward

satisfaction

satisfaction of the said supposed debt and damages, and thereby wholly defeated the said last-mentioned distress, and prevented the said T. from cutting down, appraising, and selling the same under the said last-mentioned distress; whereby the said T. then lost the whole benefit and advantage of his said last-mentioned distress, and the means of recovering and obtaining his said last-mentioned arrears of rent, to wit, at E. aforesaid, to the said T. his damage of one hundred pounds; and therefore, &c.

—, to wit. Who as well for our lord the king as for himself in this behalf, complains against B. and C. being, &c. of a plea that they render unto our said lord the king and the said A. who sues as aforesaid, forty-four pounds two shillings of lawful, &c. which they owe to our said lord the king and the said A. who sues as aforesaid, and unjustly detains: For that they the said B. and C. after the twenty-ninth day of September 1714, to wit, on the twenty-eighth of July 1763, at Westminster, in the said county of Middlesex, by deceitful ways and means, and by and upon a corrupt bargain and contract made after the twenty-ninth day of September 1714, did take, accept, and receive from one Ann Mahon, widow, the sum of twelve shillings for the forbearing and giving day of payment to the said A. M. of the sum of eight pounds eight shillings before the twenty-eighth day of July, in the said year of Our Lord 1763, and after the said twenty-ninth day of September, in the said year of Our Lord 1714, lent by the said B. and C. to the said A. M. to wit, upon and from the twenty-eighth day of March, in the said year of Our Lord 1763, until the said twenty-eighth day of July, in the same year, which said sum of twelve shillings, so paid by the said A. M. to the said B. and C. for the forbearing and giving day of payment of the said sum of eight pounds eight shillings to the said A. M. as aforesaid, exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute, &c.; by reason whereof, and by force of that statute, an action hath accrued to our said lord the king and the said A. who sues as aforesaid, to demand and have of the said B. and C. twenty-five pounds four shillings, parcel of the said sum of forty-four pounds two shillings, to wit, the treble value of the said eight pounds eight shillings so lent by the said B. and C. to the said A. M. as aforesaid; and also that the said B. and C. after the twenty-ninth of September 1714, to wit, on the twenty eighth day of January 1765, at Westminster aforesaid, by deceitful ways and means, and by force, and upon a certain other corrupt bargain and contract made after the twenty-ninth day of September, in the said year of Our Lord 1714, did take, accept, and receive from the said A. M. the sum of two pounds fourteen shillings for the forbearing and giving day of payment to the said A. M. of the sum of six pounds six shillings before the said twenty-eighth day of January in the said year of Our Lord 1765, and after the said twenty-ninth day of September

Declaration in debt on 12. Ann, against a pawnbroker for usury.

1714, lent by the said B. and C. to the said A. M. to wit and from the said twenty-eighth day of July, in the said year Lord 1763, until the said year of Our Lord 1763, wh sum of two pounds and fourteen shillings so paid by the said to the said B. and C. for the forbearing and giving day of of the said sum of six pounds and six shillings to the said A. as aforeaid, exceeds the rate of five pounds for the forbear one hundred pounds for one year, contrary to the form, &c. by reason whereof and by force of that statute an action is crued to our said lord the king and the said A. who sues as aforeaid, to demand and have of the said B. and C. eighteen and eighteen shillings, residue of the said forty-four pounds and shillings, to wit, the treble value of the said sum of six pounds six shillings so lent by the said B. and C. to the said A. M. as aforeaid; theless the said B. and C. although often requested, have not hath either of them rendered to our said lord the king and the said A. who sues as aforeaid, the said forty-four pounds two shillings or any part thereof, but have altogether refused, and still refuse to render the same to our said lord the king and the said A. who sues as aforeaid; whereby the said A. who sues as aforeaid that he is injured, and hath damage to the value of forty pounds and therefore the said A. as well for our said lord the king as himself, brings suit, &c. Pledges, &c.

The defendants in this action were pawnbrokers, and on the twenty-eighth of March 1763, lent A. M. 8l. 8s. on her depositing a ring of the value of 20l. a regular entry was made in their books of the pawn, and twopence paid for a duplicate, but nothing was said about paying any thing for warehouse, 30. Geo. 2. c. 27. On the 28th of July 1763, A. M. paid off two guineas, and likewise discharged the use of the eight guineas to that time, which defendant computed at

16s. being near 30l. *per cent.* complaining of as excessive her back 1s. or 1s. 6d. but not certain that is the reason of the charging it only 12s. About January 1765, A. M. took up and paid the remaining 6l. 6s. with 2l. 14s. which they de the use of eighteen months, 1 month for every guinea, which wise at 30l. *per cent.* and on the said action is brought.

Declaration on
12. Ann, c. 16.
against usury on
money lent.

SOLOMON Rutti, who sues as well for our said lord the king as for himself in this behalf, prosecutes, complains of the said Nuns, being in the custody of, &c. of a plea that he renders to his said majesty and the said Solomon, who as well, &c. hundred and seventy-six pounds eight shillings and sixpence to them he oweth and unjustly detains from them: whereas after the twenty-ninth of September, A. D. 1734, on the twelfth of August 1734, at London, in the parish of St. James's, Duke's-place, it was corruptly, and against the statute in such case made and provided, agreed by and between the said Jacob F. N. and Johesiel de Sadia, that the said J. F. N. should lend unto the said J. de S. fifty-six pounds, to be paid to him at the end of one month then next following, and that the said J. de S. should pay and give unto the said J. F. N. for the forbearance

of payment of the said fifty-six pounds for the time aforesaid of six pounds ; and for securing payment of the said pounds to the said J. F. N. the said J. de S. should give to F. N. his promissory note, whereby he should promise the said J. F. N. or order, the sum of fifty-six pounds, one month after the date of the said note : And the said Solomon, who aforesaid, further saith, that in pursuance of the said covenant he the said J. F. N. afterwards, on the twelfth of the year aforesaid, at L. aforesaid, in the parish and ward went unto the said J. de S. the said fifty-six pounds so agreed to him as aforesaid by the said Jacob, to be repaid him at the end of one month then next following, and the said Johesl here paid and gave unto the said Jacob for the forbearing the day of payment of the said fifty-six pounds for the time the sum of six pounds so agreed to be paid as aforesaid, for securing the payment to the said Jacob of the said fifty-six pounds so lent to the said Johesl, then and there gave unto the said Jacob his certain promissory note, bearing date the same day by which he promised to pay to the said Jacob, or order, the sum of fifty-six pounds one month after the date of the said note, which said sum of six pounds so paid and given to the said Jacob by the said Johesl for the forbearing and giving security for the said sum of fifty-six pounds for the time and which said six pounds so by him the said Jacob received, and had of the said Johesl for the forbearing and for payment of the sum of fifty-six pounds for the time so lent, doth exceed the sum of five pounds for one hundred years for one year, against the form of the statute aforesaid made and provided ; whereby an action hath accrued to the said sovereign lord the now king and to the said Solomon, his heirs, &c. to demand and have of the said Jacob one hundred and eighty-eight pounds, parcel of the said three hundred and eighty pounds two shillings and sixpence, being treble the sum of fifty-six pounds so lent as aforesaid. [2d Count, for the sum of six pounds so lent and six pounds given as a premium ; 3d Count, for the sum of fifty-six pounds lent and ten shillings and sixpence given as a premium ; 4th Count, for nine pounds nine shillings and sixpence agreed to be paid for a reward] ; and the said Jacob, although often requested, &c.

shows how to plead to an Action, q. t. Dan. Abr. fol. 9. tit. Action

LESEX, to wit. Thomas Price, who sues as well for the king as for himself in this behalf, complains of Sir John Berham, being in the custody, &c. that he render to the king and the said T. P. who sues as aforesaid, the sum of forty-six pounds eleven shillings of lawful money, and the said T. P. who sues as aforesaid, wrongfully and unjustly detains from them : For that after the

Declaration on 12. Ann, c. 16. for taking more than lawful interest on forbearance of money secured on a bill of exchange,

the twenty-ninth of September, A. D. 1714, and before the making of the corrupt bargain and agreement herein mentioned, to wit, on the fourth of October 1775, at Westminster, in the county of Middlesex, one Jacob de Rippe, according to the usage and custom of merchants from time immemorial approved of within this kingdom, made his certain bill of exchange in writing, bearing date the same day and year last aforesaid, and then and there directed the said bill of exchange to one A. B. and by the said bill required him the said A. B. two months after the date of the said bill to pay to the said T. P. or order, the sum of one hundred and five pounds ten shillings, as by advice from the said Jacob de Rippe, and then and there delivered the said bill of exchange to the said T. P. and the said A. B. afterwards, on the same day and year last aforesaid, at Westminster aforesaid, in the said county, on sight thereof accepted the said bill of exchange, according to the usage and custom of merchants aforesaid, which said bill of exchange he the said T. P. afterwards, to wit, on the same day and year last aforesaid, at Westminster aforesaid, in the said county, indorsed with his own proper hand thereto subscribed, and by that indorsement appointed the contents of the said bill of exchange to be paid to Mr. William Chamberlayne, or order, and then and there delivered the said bill of exchange, so indorsed, to the said William Chamberlayne: And the said T. P. who sues as aforesaid, further says, that afterwards, and before the expiration of the time appointed for the payment of the said sum of money in the said bill of exchange contained, and before the exhibiting the bill of the said T. P. who sues as aforesaid, to wit, *on the twelfth of October 1775*, at Westminster aforesaid, in the said county, it was corruptly and against the form of the statute in such case made, and provided, agreed by and between the said R. R. and the said William C. that the said Rowe should lend to the said William the sum of one hundred and three pounds and eightpence, and should forbear and give day of payment for the same from the time of lending the same until the time that the sum of money in the aforesaid bill of exchange mentioned should become due and payable, to wit, until the seventh of December then next following, and that the said Rowe Rotherham, for the forbearing and giving day of payment of the said last-mentioned sum of one hundred and three pounds and eightpence for the time last aforesaid, should have the sum of two pounds two shillings at the time the said sum of money in the said bill of exchange mentioned should become due and payable; and that the said W. C. for the securing the payment as well for the said one hundred and three pounds and eightpence so to be lent as aforesaid, as of the said two pounds two shillings, for the forbearing and giving day of payment aforesaid, should indorse the bill of exchange, and should deliver the same so indorsed to the said Rowe R.: And the said T. P. who sues as aforesaid, says, that in pursuance of the said corrupt bargain and agreement so made as aforesaid, he the said Rowe afterwards, to wit, *on the said twelfth of November, A. D. 1775*, at Westminster aforesaid, in the said county,

State the exact day.

The exact day.

county, did lend, &c. [Averment that defendant did lend, and did forbear for the said time, &c.; and that Chamberlayne, for securing, &c. as aforesaid, did indorse, &c. and deliver the same to defendant so indorsed, and that defendant, on the seventh of December, took, accepted, received, and had the said two pounds two shillings for forbearing, &c. which said sum of two pounds two shillings, so taken, &c. by defendant for forbearing, &c. of one hundred and three pounds and eightpence for the time, &c. exceeds the rate of five pounds for the forbearing of one hundred pounds for a year, contrary to the form of the statute, &c.; by reason whereof and by virtue of the said statute, &c. *adlio accrevit*]; and also for that afterwards, &c.: And also for that, &c. [common Count for the first sum of money mentioned in the first Count]: And also for that, &c. [common Count on the sum of money mentioned in the second Count]: And also for that, &c. [common Count for the sum of money mentioned in the third Count].

2d Count, on another bill of exchange, same as in 1st Count.
3d Count, for illegal discount of note of hand, same as on bill of exchange.

S. W. esquire, complains against J. B. being, &c. of a plea that he render to him fourteen pounds of lawful, &c. which he owes to and unjustly detains from him: For that whereas the said S. on the twenty-fourth of May 1763, at Westminster, in the said county of Middlesex, demised to the said James a certain messuage of the said S. in Little Ruffel-court, in the parish of St. Martin's in the Fields, in the said county of Middlesex, to have and to hold to the said James for and during the term of *one whole year*, to commence from Midsummer then next, and so from year to year as long as the said S. and the said James should please, at and under the yearly rent of twenty-eight pounds, payable quarterly, to wit, in the feast of, &c. &c. by equal portions, by virtue of which said demise he the said James afterwards, to wit, on the twenty-fourth of June 1763, entered into the said demised premises, with the appurtenances, and was possessed thereof; and the said James being so possessed thereof, the reversion thereof belonging to the said Samuel, he the said Samuel after and whilst the said James so continued so possessed of the said demised premises by virtue of and under the said demise, to wit, on the twenty-fourth of March, A.D. 1767, at Westminster aforesaid, gave notice in writing to the said James for the delivery up of the possession of the said demised premises to him the said Samuel at Midsummer day next; nevertheless the said James, not regarding the statute, &c. nor the notice, &c. after notice given in writing as aforesaid, for delivery up of the possession thereof as aforesaid to the said S. did not deliver up the possession of the said demised premises to him the said Samuel on the said Midsummer day then next, but wilfully held over the same, and continued in possession thereof from the Midsummer day then next until and upon the feast of St. Michael the Archangel next, against the form, &c.: And the said Samuel further says, that the said premises, so detained as aforesaid by the said James,

Declaration on 4. Geo. 2. against tenant for holding over after notice given by landlord to quit.

5. Burr. 2699.

Demise for a year.
Lofft's Rep. 153, 154. 275.

Notice to quit at Midsummer.

Defendant held over till Michaelmas.

Double value.

were, during the time of the detaining thereof after the notice aforesaid, so as aforesaid given by the said Samuel to the said James for the delivering up the possession thereof of the yearly *value of twenty-eight pounds*, to wit, at Westminster aforesaid, in the said county; by reason whereof and by force of, &c. an action hath accrued to the said S. to demand and have of and from the said James the said fourteen pounds, being double the value of the premises so wilfully held over and detained as aforesaid, for the time aforesaid during which the same were held over as aforesaid; nevertheless, &c. &c.

(a) Declaration
on 3. and 4.
Ann, usury on a
promissory note.

J. G. who, &c. complains of A. T. and W. D. &c. of a plea that they render to our said lord the king and the said J. who sues as aforesaid, pounds of lawful, &c. which the said A. and W. owe to and unjustly detain from them, &c.: For that whereas after the first of May 1705, and after the twenty-ninth of September 1714, before the making the corrupt agreement hereinafter mentioned, to wit, on the 1765, at, &c. one S. H. made his certain note in writing, commonly called a promissory note, bearing date the same day and year last aforesaid, and then and there delivered the said note to one M. J. and thereby, ten months after date, promised to pay to the said J. G. and R. J. by the names, and stile, and descriptions of Messrs J. G. and R. or order, pounds, value received by the said S.: And the said J. who, &c. further says, that afterwards, and before the expiration of the time appointed for the payment of the said sum of money in the said note contained, and before the exhibiting of the bill of the said J. who as well, &c. to wit, on 1765 aforesaid, at L. aforesaid, &c. it was corruptly, and against the form of the statute, &c. agreed by and between the said A. and W. and the said J. G. and R. J. that the said A. and W. should lend to the said J. G. and R. J. the sum of pounds, and should forbear and give day of payment for the same from the time of lending *until the expiration of the time appointed for payment of the said sum of money in the said note contained*, and that the said A. and W. for the said forbearance and giving day of payment of the said sum of pounds for the time last aforesaid, should have the sum of at the end and expiration of the said time appointed for the sum of money in the said note contained; and for the securing the payment as well for the said pounds so to be lent as aforesaid, as the sum of pounds for the forbearance and giving day of payment of the same as aforesaid, the said J. G. and R. J. should indorse the said promissory note, and should deliver the same so indorsed to the said A. and W.: And the said J. who, &c. further says, that in pursuance of the said corrupt agreement they the said A. and W. afterwards, to wit, on the said of , A. D. 1765, at L. aforesaid, in the parish and ward aforesaid, did lend to the said J. G. and R. J. the sum of , and did then and there forbear to give time of payment of the same from thence until the end and

For securing
day of payment
drawers should
indorse the note
and deliver it to
them.

(a) The blanks are for the sums and dates.

expiration

expiration of the time appointed for the payment of the said sum of money in the said note mentioned; and the said J. G. and R. J. for the securing to the said A. and W. the payment as well of the said sum, so lent as aforesaid, as the said J. G. and R. J. for the forbearance and giving day of payment of the same as aforesaid, and then and there, to wit, on the said day of 1765, &c. at, &c. (*ut supra*) indorsed the said promissory note, and did then and there deliver the said promissory note, so indorsed, unto the said A. and W.: And the said J. who, &c. further says, that the said A. and W. afterwards, to wit, on the 1766, &c. at, &c. (*ut supra*) took, accepted, received, and had of and from the said J. G. and R. J. the said sum for the forbearance and giving, &c. of the said sum on the time of lending thereof as aforesaid until the end and expiration of the time appointed for the payment of the said sum of money in the said note contained, which said sum of money so lent, accepted, and received by the said A. and W. as aforesaid, the forbearance and giving, &c. of the said sum as aforesaid, *the time aforesaid*, exceeds the rate of five pounds for the forbearing and giving day, &c. of one hundred pounds for a year, contrary to the form, &c.; whereby and by force, &c. an action hath accrued to the said J. who as well, &c. to demand and have well for, &c. as for himself of the said A. and W. the sum of £100, being the treble value of the said sum so lent as aforesaid, the value of the said sum above demanded: And the said J. who, &c. further saith, that after the said first day of May, A. D. 1705, [as 1st Count] to wit, on the said day of 1765, &c. at, &c. (*ut supra*) the said J. H. made his certain other note, &c. (*ut supra*) and then and there delivered the said last-mentioned note to the said J. G. and R. J. (*ut supra*) by the names, stile, and description [as in 1st Count, till the first words in Italic above-mentioned, *until the time that the said sum of money mentioned in the said last-mentioned note should become due and payable, to wit, until the day of then next following*, and that the said A. and W. (*ut supra*) [and till, &c. making the usual addition in after of "other last-mentioned, &c." when necessary] should have the sum of £100 at the time the said sum of money mentioned in the said last-mentioned note should become due and payable, &c. thereof for the, &c. (*ut supra*). And the said J. who, &c. further says, that in pursuance, &c. (*ut supra*) so made as last aforesaid, they the said A. and W. &c. did lend, &c. and did forbear, &c. from thence until the time that the said sum of money mentioned in the said last-mentioned note (as above), to wit, until the day of 1766, which said last-mentioned sum so taken, &c. (*ut supra*) from the time in that behalf above-mentioned, exceeds the

The indorsees deliver it.

Exceeds the rate of 5l. per cent.

2d Count.

joint dealers and partners in trade, they the said J. F. and W. F. on the said tenth day of February, in the said year of Our Lord 1772, at Westminster, in the said county, made their certain note or writing, commonly called a promissory note, the proper hand writing of the said J. F. for himself, and the said W. F. subscribed thereto, bearing date the same day and year aforesaid, and thereby two months after date promised to pay to the order of Mr. Mund the sum of four hundred pounds; and whereas also before the time of making the corrupt agreement hereinafter next mentioned, to wit, on the twenty-ninth day of January, in the said year 1772, at Westminster aforesaid, in the county aforesaid, one R. G. (a) according to the usage and custom of merchants, made his certain bill of exchange in writing, with his own proper name subscribed thereto, bearing the same day and year aforesaid, and then and there directed the said bill of exchange to one John G. and thereby requested the said John G. at sixty days after the date thereof, to pay to the order of one Thomas P. to whose order the payment of the said sum of money in the said bill of exchange mentioned was thereby appointed to be made, afterwards, and before the payment thereof, or of any part thereof, to wit, on the same day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, according to the usage and custom of merchants aforesaid, indorsed the said bill with his own proper hand and name thereunto subscribed: And whereas also before the time of making the corrupt agreement hereinafter next mentioned, to wit, on the second day of February, in the said year 1772, at Westminster aforesaid, in the county aforesaid, one S. S. according to the usage and custom of merchants aforesaid, made his certain bill of exchange in writing, with his own proper name thereto subscribed, bearing date the same day and year last aforesaid, and then and there directed the said last-mentioned bill of exchange to G. B. esquire, and thereby requested the said G. B. at sixty days after the date thereof, to pay to the order of sir Edward T. the sum of two hundred pounds; and the said sir Edward, to whose order the payment of the said sum of money in the said last-mentioned bill of exchange mentioned was thereby appointed to be paid, afterwards, and before the payment thereof, or of any part thereof, to wit, on the same day and year last aforesaid, at Westminster aforesaid, according to the usage and custom of merchants aforesaid, indorsed the said last-mentioned bill of exchange with his own proper hand and name thereto subscribed, and the said Mund at the time of making the corrupt agreement hereinafter next mentioned *was possessed (b)* of the said promissory note, and the said *two bills of exchange*, and being so possessed thereof, afterwards, and after the twenty-ninth day of September, A. D. 1714, to

(a) Take care that all the dates and sums are right, and the christian names of the parties, and examine the declaration with the bills and notes.

(b) All the different indorsements, by which means A. became possessed of the bills of exchange, are not before mentioned, lest it might be difficult to prove them all.

wit, on the eleventh day of February, A. D. 1772, at Westminster
 aforesaid, in the said county, it was corruptly and against the form
 of the statute in that case made provided, agreed by and between
 the said Mund and the said Robert Mayne, that the said R. M. and
 Robert N. should lend to the said Mund the sum of nine hundred
 pounds; and that for raising and procuring the same, the said R. M.
 and R. N. should then give to the said Mund their certain note
 in writing, commonly called a promissory note, bearing date the
 said eleventh day of February, in the said year of Our Lord 1772,
 the said sum of nine hundred pounds, payable in thirty days from
 the date thereof, and should forbear to give day of payment of the
 said sum of nine hundred pounds from the time that the money to
 be mentioned in the said note so to be given by the said R. M. and
 R. N. should become due and payable in manner and form fol-
 lowing, that is to say, of the sum of three hundred and thirty-eight
 pounds fifteen shillings, parcel of the said sum of nine hundred
 pounds, until the said bill of exchange, so made by the said Robert
 J. should become due and payable, to wit, until the first day of
 April then next ensuing, and the sum of two hundred pounds,
 other parcel of the said sum of nine hundred pounds, until the said
 bill of exchange so made by the said Stephen S. as aforesaid should
 become due and payable, to wit, until the fourth day of April
 then next ensuing, and of the residue of the said sum of nine hun-
 dred pounds, until the said promissory note so made by the said
 J. F. and W. F. as aforesaid should become due and payable, to
 wit, until the thirteenth day of April, in the said year of Our
 Lord 1772, and that for the forbearing and giving day of payment
 of the said sum of nine hundred pounds for the time aforesaid, in
 manner aforesaid, the said Mund should give and allow to the said
 Robert M. and Robert N. the sum of seven pounds three shillings
 and tenpence, and that for the securing the payment as well
 of the said sum of nine hundred pounds, as of the said sum of seven
 pounds three shillings and tenpence, the said Mund should indorse
 the said first-mentioned promissory note, and the said two bills of
 exchange with his own proper name thereto respectively sub-
 scribed, and deliver the same so indorsed to them the said R. M.
 and R. N.: And the said J. Fox, who sues as aforesaid, avers,
 that the said Robert M. and Robert N. in pursuance of the said
 agreement, afterwards, and after the said twenty-ninth day of
 September, A. D. 1774, to wit, on the said eleventh day of Fe-
 bruary, in the said year of Our Lord 1772, at Westminster afore-
 said, in the said county, did make their certain note in writing,
 commonly called a promissory note, bearing date the same day and
 year last aforesaid, with the proper hand writing of one of them,
 or himself and the other of them thereto subscribed, and thereby
 thirty days after date promised to pay to the said Mund, or order,
 nine hundred pounds, and did then and there deliver the said note
 to the said Mund, and the said Mund in pursuance of the said
 corrupt agreement, then and there, to wit, on the same day and
 year last aforesaid, at Westminster aforesaid, in the said county,
 did

7l. 3s. 10d. dis-
 count for 900l.
 is the same as
 8l. 10s. discount
 for 999l. 17s.

did indorse with his own proper name thereto subscribed the said first mentioned promissory note, and the said two bills of exchange, and then and there delivered the same so indorsed to the said R. M. and R. N. for the securing the payment as well of the said sum of nine hundred pounds, as of the said sum of seven pounds three shillings and tenpence^(a): And the said John Fox, who sues as aforesaid, further says, that the said Robert Mayne and Robert N. afterwards, and when the money mentioned in the said note so made by the said Robert Mayne and R. N. as aforesaid became due and payable, to wit, on the fourteenth day of March, in the said year of Our Lord 1772, *paid the same*, that is to say, at Westminster aforesaid; and the said Robert M. and Robert N. in further pursuance of the said corrupt agreement, did forbear and give day of payment to the said Mund of the said sum of nine hundred pounds, from the time that the money mentioned in the said note so made by the said Robert M. and R. N. became due and payable, to wit, from the said fourteenth day of March, in the said year of Our Lord 1772, in manner and until the times by the said R. M. and R. N. agreed upon for that purpose as aforesaid, that is to say, of the said sum of three hundred and thirty-eight pounds fifteen shillings, parcel thereof, until the said bill of exchange so made by the said Robert G. as aforesaid became due and payable, to wit, until the said first day of April, in the said year of Our Lord 1772, and of the said sum of two hundred pounds, other parcel thereof, until the said bill of exchange so made by the said S. S. as aforesaid, became due and payable, to wit, until the said fourth day of April, in the said year of Our Lord 1772, and of the residue of the said sum of nine hundred pounds, until the said promissory note so made by the said J. F. and W. F. as aforesaid became due and payable, to wit, until the thirteenth day of April, in the year of Our Lord 1772, that is to say, at Westminster aforesaid, in the said county: And the said J. F. who sues as aforesaid, further says, that the said Robert M. and R. N. afterwards, to wit, *on the said thirteenth day of April*, ^(b) in the said year of Our Lord 1772, at Westminster aforesaid, in the said county, received ~~the~~ said several sums of money in the said first-mentioned promissory note, and the said two bills of exchange mentioned, and by means thereof they the said R. M. and R. N. took, accepted, and received the said sum of seven pounds three shillings and tenpence for the forbearing and giving day of payment to the said Mund of the said sum of nine hundred pounds, in manner and form aforesaid, and for the time aforesaid, and which said sum of seven pounds three shillings and tenpence taken, accepted, and received by the said R. M. and R. N. as aforesaid, for the forbearing and giving day of payment of the said sum of nine hundred pounds as aforesaid, so

(a) It will be necessary to prove that defendant paid the nine hundred pounds to Mund at the end of thirty days after the date of the note.

(b) By this day the promissory note and both the bills of exchange had become due, and therefore the defendants had again received every part of this nine hundred pounds.

forefaid, exceeds the rate of five pounds for the forbearing day of payment of one hundred pounds for a year, to the form of the statute in fuch cafe made and provided; and by force of the statute in fuch cafe made and provided, action hath accrued to the faid J. F. who fues as aforefaid, and have of and from the faid R. M. and R. N. for our faid lord the king as for himfelf, the fum of two even hundred pounds, being treble the value of the faid one hundred pounds fo lent and forborne as aforefaid, part of the faid fum of eight thoufand nine hundred and fixty-three fhillings above demanded: And the faid J. Fox, who aforefaid, further fays, that the faid R. M. and R. N. after and after the faid twenty-ninth day of September, in the year of Our Lord 1714, to wit, on the *faid thirteenth day of* the faid year of Our Lord 1773, at Weftminfter aforefaid county, upon a certain other corrupt contract, on the faid twenty-ninth day of September, in the faid year of Our Lord 1714, to wit, on the *faid eleventh day of February* in the faid year of Our Lord 1772, at Weftminfter aforefaid county, between the faid Mund and the faid R. M. I. took, accepted, and received by way of corrupt bargain, another fum of seven pounds three fhillings and fix pence for the faid R. M. and R. N. forbearing and giving day of payment to the faid Mund of another fum of nine hundred pounds *before the time*, viz. before the thirteenth day of April, *the fourteenth day of March*, in the faid year of Our Lord 1772, lent by the faid R. M. and R. N. to the faid Mund, in the form following, that is to fay, for the forbearing day of payment to the faid Mund of the fum of three hundred and thirty-eight pounds fifteen fhillings, parcel of the faid nine hundred pounds laft-mentioned, from the faid thirteenth day of March, in the faid year of Our Lord 1772, until the fourteenth day of April then next enfuing, and the forbearing and giving day of payment to the faid Mund of the fum of two hundred and thirty-eight pounds fifteen fhillings, other parcel of the faid laft-mentioned fum of nine hundred pounds, from the faid fourth of April in the fame year, and the forbearing and giving day of payment to the faid Mund of the fum of three hundred and fixty-one pounds five fhillings, refidue of the faid fum of nine hundred pounds laft-mentioned, from the fourteenth day of March, in the faid year of Our Lord 1772, until the thirteenth day of April in the fame year, which fum of seven pounds three fhillings and ten pence was taken, accepted, and received by the faid R. M. and R. N. laft aforefaid, in manner aforefaid, and for the caufe aforefaid, exceeds the rate of five pounds for the forbearing and giving day of payment of one hundred pounds for a year, contrary to the form of the statute in that cafe made and provided; whereby action hath accrued to the faid J. Fox, who fues as aforefaid, to demand of and have as well for our faid lord the king as for himfelf, of the faid R. M. and R. N. other two thoufand seven hundred

2d Count, a general one.

The day when F.'s note to A. became due and payable.

The day of the date of the defendants note to A. and the day of F's note to A.

The day when defendants note to A. became due and payable.

3d Count.

Being 30 days
from the 7th of
March.

Being 60 days
from the 7th of
March.

hundred pounds, being treble the value of the said sum of nine hundred pounds so lent and forborne as last aforesaid, other parcel of the said sum of eight thousand nine hundred and sixty three pounds two shillings above demanded: And whereas before the time of making the corrupt agreement hereinafter next mentioned, to wit, on the seventh day of March, in the said year of Our Lord 1772, at Westminster aforesaid, in the county aforesaid, the said John Fox and William F. were partners and joint dealers in trade as aforesaid, and being so partners and joint dealers in trade as aforesaid, they the said John Fox and William F. on the said seventh day of March, in the said year 1772, at Westminster aforesaid, in the said county, made their certain note in writing, commonly called a promissory note, with the proper hand writing of the said John Fox, for him and the said William F. subscribed thereto, bearing date the same day and year last aforesaid, and thereby *two months* after date promised to pay to the order of the said Mund the sum of three hundred and forty-eight pounds twelve shillings and sixpence, and then and there delivered the same note to the said Mund, and the said Mund being possessed of the said last-mentioned promissory note, afterwards, to wit, on the same day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, it was corruptly, and against the form of the statute in that case made and provided, agreed by and between the said Mund and the said R. M. and R. N. that the said R. M. and R. N. should lend to the said Mund the sum of three hundred and forty-five pounds eleven shillings and sixpence, and that for raising and procuring the same the said R. M. and R. N. should then give to the said Mund their certain note in writing, commonly called a promissory note, bearing date the said seventh day of March, in the said year of Our Lord 1772, for the said sum of three hundred and forty-five pounds eleven shillings and sixpence, payable in thirty days from the date thereof, and should forbear and give day of payment of the said sum of three hundred and forty-five pounds eleven shillings and sixpence from the time that the said sum of three hundred and forty-five pounds eleven shillings and sixpence, to be mentioned in the said note so to be given by the said R. M. and R. N. as last aforesaid, should become due and payable, until the time appointed for the payment of the said sum of three hundred and forty-eight pounds twelve shillings and sixpence, in the said last-mentioned note made by the said J. Fox and William F. mentioned, that is to say, from *the ninth day of April* in the said year 1772, until the ninth day of May, in the said year 1772, and that for the forbearing and giving day of payment of the said sum of three hundred and forty-five pounds eleven shillings and sixpence for the time last aforesaid, should give and allow to the said R. M. and R. N. the sum of three pounds one shilling; and that for the securing the repayment as well of the said sum of three pounds one shilling, as of the said three hundred and forty-five pounds eleven shillings and sixpence, the said Mund did then indorse the said last-mentioned promissory note made by the said John F. and William F. with

F. with his own proper name thereto subscribed, and delivered the same so indorsed to the said R. M. and R. N.: And the said John F. who sues as aforesaid, avers, that in pursuance of the said last-mentioned corrupt agreement, afterwards, and after the said twenty-ninth day of September, in the said year of Our Lord 1714, to wit, on the seventh day of March, in the said year of Our Lord 1772, at Westminster aforesaid, in the said county, the said R. M. and R. N. did make their certain other note in writing, commonly called a promissory note, with the proper hand writing of one of them, for himself and the other of them thereto subscribed, bearing date the same day and year last aforesaid; and whereby thirty days after date promised to pay to the order of the said Mund three hundred and forty-five pounds eleven shillings and sixpence, and then and there delivered the said last-mentioned note to the said Mund, and the said Mund then and there, to wit, on the same day and year last aforesaid, at Westminster aforesaid, in the said county, did indorse the said last-mentioned promissory note, made by the said John F. and William F. as aforesaid, with his own proper name thereto subscribed, and did then and there deliver the same so indorsed to the said R. M. and R. N.; and the said R. M. and R. N. afterwards, and when the money mentioned in the said last-mentioned note so made by them as aforesaid, became due and payable, to wit, on the ninth day of April, in the said year of Our Lord 1772, *paid the same (a)*, and did forbear and give day of payment of the said sum of three hundred and forty-five pounds eleven shillings and sixpence to the said Mund, for the time appointed by the said last-mentioned note given by the said R. M. and R. N. for the payment of the said sum of money therein mentioned, until the time appointed for the payment of the said sum of three hundred and forty eight pounds twelve shillings and sixpence in the said last-mentioned promissory note so made by the said John F. and W. F. as aforesaid mentioned, that to say, from the ninth day of April, in the said year of Our Lord 1772, until the said ninth day of May, in the said year of Our Lord 1772, to wit, at Westminster aforesaid, in the said county; and the said John F. who sues as aforesaid, further says, that the said R. M. and R. N. afterwards, to wit, on the said ninth day of May, in the said year of Our Lord 1772, at Westminster aforesaid, in the said county, received the sum of three hundred and forty-five pounds twelve shillings and sixpence in the said last-mentioned note made by the said John F. and W. F. mentioned, and by means thereof, they the said R. M. and R. N. then and there, to wit, on the said ninth day of May, in the said year 1772, at Westminster aforesaid, in the said county, took, accepted, and

(a) Then might be added, after the word *paid* for the securing the payment as of the said sum of three hundred and forty-five pounds eleven shillings and sixpence, as of the said sum of three pounds and sixpence, as in the first Count to A.

for it will be necessary to prove that defendants paid their note of three hundred and forty-five pounds eleven shillings and sixpence at the end of thirty days after the date thereof.

4th Count, more
general.

The day when
Fox's note to
A. became due
and payable.

The day of the
date of defend-
ants note to A.
and also of Fox's
note to A.

The day when
defendants note
to A. became
due.

*The day when
Fox's note to
Mund and Allen
became due.

received the said sum of three pounds one shilling for forbea-
giving day of payment to the said Mund of the said sum of
hundred and forty-five pounds eleven shillings and sixpence
time aforesaid, in that behalf above mentioned, which oth-
er of three pounds ten shillings so taken, accepted, and received
said R. M. and R. N. as aforesaid for the forbearing and givi-
ng of payment of the said sum of three hundred and forty-five
eleven shillings and sixpence as aforesaid, for the time last
said, exceeds the rate of five pounds for the forbearing and
day of payment of one hundred pounds for a year, contrary
form of the statute in such case made and provided; where-
by force of the statute in such case made and provided, an
hath accrued to the said John Fox, who sues as aforesaid,
mand and have as well for our said lord the king as for him-
self and from the said R. M. and R. N. the said sum of one thou-
sand and thirty-six pounds fourteen shillings and sixpence, being
the value of the said sum of three hundred and forty-five pounds
shillings and sixpence so lent and forborne as last aforesaid
parcel of the said sum of eight thousand nine hundred and sixty-
three pounds two shillings above demanded: And the said John Fox
sues as aforesaid, further says, that the said R. M. and R. N.
terwards, and after the said twenty-ninth day of September,
said year of Our Lord 1714, to wit, *on the said ninth day*
tember, in the said year of Our Lord 1772, at West-
minster aforesaid, in the said county, upon a certain other corrupt
tract, made after the said twenty-ninth day of September,
said year of Our Lord 1714, on the *said seventh day of*
in the said year of Our Lord 1772, at Westminster aforesaid,
the said county, between the said R. M. and R. N. and the
said Mund took, accepted, and received by way of corrupt
and loan, another sum of three pounds and one shilling,
said R. M. and R. N. their forbearing and giving day of pay-
ment to the said Mund, *from the ninth day of April*, in the sa-
id year of Our Lord 1772, *until the ninth day of May*,* in the
said year, of another sum of three hundred and forty-five pounds
eleven shillings and sixpence, before that time, to wit, on the said
day of March, in the said year of Our Lord 1772, lent by
said R. M. and R. N. to the said Mund, which said last-men-
tioned sum of three pounds one shilling so taken, accepted, and re-
ceived as last aforesaid, exceeds the rate of five pounds for the
advance of one hundred pounds for a year, contrary to the for-
m of the statute in such case made and provided; whereby and by
force of the statute in such case made and provided, an action has
accrued to the said J. F. who sues as aforesaid, to demand a
sum as well for our said lord the king as for himself, of and from
said R. M. and R. N. other one thousand and thirty-six pounds
teen shillings and sixpence, being treble the value of the
three hundred and forty-five pounds eleven shillings and six-
pence so lent and forborne as aforesaid, further other parcel of the
said sum of eight thousand nine hundred and sixty-three pounds two

demanded: And the said J. F. who sues as aforesaid, further ^{5th Count.} that the said R. M. and R. N. afterwards, and after the said y-ninth day of September, in the said year of Our Lord, to wit, on the twenty-first day of April, in the said year at Westminster aforesaid, in the said county, upon a certain corrupt contract, made after the said twenty-ninth day of September, in the said year 1714, on the nineteenth day of March, in the said year 1772, at Westminster aforesaid, in the said county, between the said R. M. and R. N. and the said J. F., took, accepted, and received by way of corrupt bargain and sale, of and from the said Mund another sum of two pounds one shilling and fourpence, for the said R. M. and R. N. forbearing and giving day of payment to the said Mund from the eleventh day of April, in the said year 1772, until the twenty-first day of May, in the said year of Our Lord 1772, of another sum of four hundred and ninety-six pounds eleven shillings, before that time, to wit, on the nineteenth day of March, in the said year 1772, by the said R. M. and R. N. to the said Mund, which said sum of two pounds one shilling and fourpence so taken, accepted, and received by the said R. M. and R. N. as last aforesaid, for forbearance and giving day of payment to the said Mund of the last-mentioned sum of four hundred and ninety-six pounds eleven shillings as last aforesaid, for the time last aforesaid, exceeds the rate of four pounds for forbearing and giving day of payment of one hundred pounds for a year, contrary to the form of the statute in such behalf made and provided; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said J. F. who sues as aforesaid, to demand and have as well for the said lord the king as for himself, of and from the said R. M. and R. N. another sum of one thousand four hundred and eighty-two pounds thirteen shillings, being treble the value of the said last-mentioned sum of four hundred and ninety-six pounds eleven shillings, so lent and forborne as last aforesaid, the residue of the said sum of eight thousand nine hundred and sixty-three pounds two shillings above demanded; yet the said R. M. and R. N. although so requested, have not, nor hath either of them rendered to the said lord the king and the said J. F. who sues as aforesaid, or either of them, the said eight thousand nine hundred and sixty-three pounds two shillings, or any part thereof; but to render the same to them they the said R. M. and R. N. have wholly hitherto refused, and still do refuse, whereby the said John F. who sues as aforesaid, saith that he is injured, and hath sustained damage to the value of forty pounds, and thereof as well for our said lord the king as for himself, he brings suit, &c.

think the transaction on the 14th of March is out of time, and that the plaintiff will not be able to recover, for that, therefore I have not put any special Count on that transaction; but I have

added a general one on it, that, if possible, the plaintiff may recover for that offence as well as the other.

F. BULLER.

On stat. of usury, 12. Ann, c. 16. against defendant, who lent A. the money arising from the sale of 895 dollars for six weeks and three days, and taking unlawful interest for the forbearance thereof.

LONDON, to wit. Samuel Chadwick, who sues as well for our said lord the king as for himself in this behalf, complains against William Cox being, &c. : For that after the twenty-ninth of September 1714, that is to say, on the eighth of August 1772, at L. aforesaid, in the parish of, &c. and ward of, &c. it was corruptly and against the form of the statute in that case made and provided, agreed by and between the said W. C. and one John Wood, that the said William should deliver to the said John Wood divers, to wit, eight hundred and ninety-five dollars, then and there bearing of the value of two hundred and seven pounds of lawful money of Great Britain and no more, for the purpose of his the said John Wood's selling the same and raising money by the sale thereof, and should lend the said John W. the money arising by and from the sale thereof, and should forbear and give day of payment for such sum from the time of delivering the said dollars for the space of six weeks and three days, and that at the end of the said time of six weeks and three days the said John should pay to the said William the sum of two hundred and twenty pounds of lawful money of Great Britain for the said dollars, and for forbearing and giving day of payment for the same for the time aforesaid, to wit, the sum of two hundred and seven pounds, parcel of the said sum of two hundred and twenty pounds, being the value of the said dollars as aforesaid, and the residue of the said sum of two hundred and twenty pounds, amounting to the sum of thirteen pounds for the forbearing and giving day of payment for the said dollars as aforesaid, for the time aforesaid, and that for the securing the payment of the sum of two hundred and twenty pounds, he the said J. W. should give his promissory note in writing, bearing date on the said eighth of August 1772, for the said sum of two hundred and twenty pounds payable to him the said W. at six weeks after date, and should deposit thirty-two picces of muslin, a diamond ring set in clusters, the centre stone weighing eight grains, of him the said John Wood, in the hands and custody of him the said William: And the said Samuel, who sues as aforesaid, in fact says, that in pursuance of the said corrupt agreement the said William afterwards, to wit, on the said eighth of August 1772, at L. aforesaid, in, &c. did deliver to the said John the said dollars, then and there being of the value of two hundred and seven pounds of lawful money of Great Britain and no more, for the particular purpose aforesaid, and did lend the said J. Wood the money arising by and from the sale thereof, to wit, the sum of two hundred and seven pounds, and did forbear and give to the said John Wood day of payment for the same from the time of delivering the said dollars as aforesaid, for the said space of six weeks and three days, and that the said John Wood then and there, to wit, on the same day and year last aforesaid, at L. &c. for securing of the payment of the said sum of two hundred and twenty pounds, did give to the said William his the said John Wood's promissory note in writing, bearing date the said eighth of August 1772, for the said sum of two hundred and twenty pounds, payable to him the said William

William six weeks after date, and did deposit the said muslins and diamond ring in the hands and custody of the said William; and the said William afterwards, to wit, on the twenty-third of September 1772, at L. &c. took, accepted, and received the said sum of two hundred and twenty pounds for the cause aforesaid, to wit, the sum of two hundred and seven pounds, being the value of the said dollars, and the sum of thirteen pounds for the forbearing and giving day of payment of the said sum of two hundred and seven pounds as aforesaid for the time aforesaid, which said sum of thirteen pounds so taken and accepted by the said William for the cause aforesaid, exceeds the rate of five pounds for the forbearing and giving day of payment of the sum of one hundred pounds for one year; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said Samuel, who sues as aforesaid, to demand and have of and from the said William for our said lord the king and himself, the sum of six hundred and twenty-one pounds, being treble the value of the said dollars so bargained, sold, and delivered by the said William to the said John W. as aforesaid, parcel of the said sum of pounds above demanded. [Same as 1st Count, making the loan for six weeks, received the twenty-third of September]: And also, for that

2d Count.

after the said twenty-ninth of September 1714, to wit, on the said eighth of August 1772, at L. aforesaid, &c. the said William, upon a certain other corrupt contract made after the said twenty-ninth of September 1714, to wit, on the eighth of August 1772, at L. aforesaid, &c. but the said William and the said John W. by means of selling and delivering to the said John W. divers, to wit, eight hundred and ninety-five other dollars, then and there being of the value of other two hundred and seven pounds of lawful money of Great Britain and no more, for another sum of two hundred and twenty pounds of like lawful money of Great Britain, and took, accepted, and received of and from the said John W. another sum of thirteen pounds for the forbearing and giving day of payment of the said last-mentioned dollars, from the eighth of August 1772 to the twenty-second of September 1772, which said last-mentioned sum of money, &c.; and also for that the said W. afterwards, &c. upon a certain other corrupt contract made after, &c. took, accepted, and received of and from the said John W. other thirteen pounds of like lawful money of Great Britain, for the forbearing and giving day of payment to the said John W. from the said eighth of August 1772 to the twenty-second of September 1772, of another sum of two hundred and seven pounds before that time lent and advanced to the said John, which said last-mentioned sum of, &c.

3d Count, for selling to A. 895 dollars, and taking unlawful interest for forbearing the payment of the money he was to give for the dollars.

F. BULLER.

MIDDLESEX, to wit. John Graham, who sues as well for our sovereign lord the king as for himself in this behalf, complains against Thomas Griffith being, &c. of a plea that he render to our

On 12. Ann, for usury, on discounting a note said of hand.

said lord the king and the said John, who sues as aforesaid, two hundred and ninety-four pounds of lawful money of Great Britain, which he owes to and unjustly detains from them: For that after the first of May, which was A. D. 1775, and after the twenty-ninth of September, which was A. D. 1774, and before the making of the corrupt bargain and agreement hereinafter mentioned, to wit, on the second of October A. D. 1777, at Westminster, in the said county of Middlesex, one E. B. made his certain note in writing, commonly called a promissory note, bearing date the same day and year, and then and there delivered the said note to one A. B. and thereby six weeks after date promised to pay to the said A. B. or order the sum of twenty-five pounds for value received, which said promissory note he the said B. afterwards, to wit, on the same day and year aforesaid, at Westminster aforesaid, in the said county, indorsed with his own proper hand thereto subscribed, and by that indorsement appointed the contents of the said note to be paid to one John R. or order, and then and there delivered the said note so indorsed to the said John R.: And the said J. G. who sues as aforesaid, further says, that afterwards and before the expiration of the time appointed for the payment of the said sum of money in the said note mentioned, and before the exhibiting of the bill of the said John G. who sues as aforesaid, to wit, on the third of October, in the said year of Our Lord 1777, at Westminster aforesaid, in the said county, it was corruptly, and against the form of the statute in such case made and provided, agreed by and between the said Thomas and the said John R. that he the said Thomas should lend to the said John R. the sum of twenty-four pounds ten shillings, and should forbear day of payment for the same, from the time of lending thereof until that the sum of money in the said note mentioned should become due and payable, to wit, until the sixteenth of November then next following, and that the said Thomas, for the said forbearing and giving day of payment of the said sum of twenty four pounds ten shillings for the time aforesaid, should have the sum of ten shillings at the time the said sum of money in the said note mentioned should become due and payable; and the said John R. for the securing of the payment as well of the said twenty-four pounds ten shillings so to be lent as aforesaid, as of the said ten shillings for the forbearing and giving day of payment of the same as aforesaid, should indorse the said promissory note, and should deliver the same so indorsed to the said Thomas: And the said J. G. who sues as aforesaid, further says, that in pursuance of the said corrupt bargain and agreement so made as aforesaid, he the said Thomas afterwards, to wit, on the third of October 1777, at Westminster aforesaid, in the said county, did lend to the said John R. the aforesaid sum of twenty-four pounds ten shillings, and did forbear and give day of payment of the same from thence until the time that the money in the said promissory note mentioned became due and payable, to wit, until the sixteenth of November then next following; and the said John R. for the securing to the said Thomas

ayment as well of the said sum of twenty-four pounds
 gs so lent as aforesaid, as of the said ten pounds for the
 and giving day of payment of the same as aforesaid, did
 there indorse the said note with his own proper name
 bscribed, and delivered the said note so indorsed unto the
 nas : And the said John, who sues as aforesaid, further
 the said Thomas afterwards, to wit, on the said sixteenth
 nber 1777, at Westminster aforesaid, in the said county,
 of the said corrupt bargain and agreement so made as a-
 took, accepted, and received, and had from the said John
 d ten shillings for the forbearing and giving day of pay-
 the said sum of twenty-four pounds ten shillings from the
 ending the same as aforesaid until the time that the said
 oney mentioned in the said note became due and pay-
 it, until the sixteenth of November in the said year of
 1777, which said sum of ten shillings so taken, accepted,
 ved by the said Thomas as aforesaid for the forbearing
 g day of payment of the said twenty-four pounds ten shil-
 foresaid, for the space of time mentioned in that behalf as
 exceeds the rate of five pounds for the forbearing and
 y of payment of the sum of one hundred pounds for a
 trary to the form of the statute in such case made and
 ; by reason whereof, and by force of the statute in
 made and provided, an action hath accrued to the
 G. who sues as aforesaid, to demand and have of
 the said Thomas as well for our said lord the king
 nself the said John G. who sues as aforesaid, the sum of
 hree pounds ten shillings, being treble the value of the
 of twenty-four pounds ten shillings so lent and forborne
 id, and parcel of the said sum of two hundred and ninety-
 ds above demanded: And the said John, who sues as a- 2d Count.
 further says, that the said Thomas afterwards, and after
 ty-ninth day of September, in the said year of Our Lord
 wit, on the said sixteenth day of November, in the said
 Our Lord 1777, at Westminster aforesaid, in the said
 upon a certain other corrupt contract made after the said
 nth day of September, in the said year of Our Lord
 wit, on the third day of October, in the said year of Our
 77, at Westminster aforesaid, in the said county, by and
 the said Thomas and the said J. R. took, accepted, and
 by way of corrupt bargain and loan of and from the said
 another sum of ten shillings for the said Thomas his for-
 and giving day of payment to the said John R. from the
 of October, in the said year of Our Lord 1777, until
 ixteenth day of November then next following, of ano-
 of twenty-four pounds ten shillings before that time, to
 the third day of October, in the said year of Our Lord
 nt by the said Thomas to the said John R. which said
 tioned sum of ten shillings so taken, accepted, and receiv-
 t aforesaid, for the cause last aforesaid, exceeds the rate of

five pounds for the forbearance of one hundred pounds for a year, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said John, who sues as aforesaid, to demand and have of and from the said Thomas as well for our said lord the king as for himself the said John G. who sues as aforesaid, other seventy-three pounds ten shillings, being treble the value of the said last-mentioned sum of twenty-four pounds ten shillings, so lent and forborne as last aforesaid, and further parcel of the said sum of two hundred and ninety-four pounds above demanded. [Two other Counts the same as the last, only instead of the sixteenth of November say the thirteenth, for fear of three days grace given, or the notice should not be strictly legal.]

Replication (to a plea that bond was given for money won at play) that it was given for a just and true debt, and not for money won at play.

AND the said Francis prays a day to imparl to the said plea, and it is granted him, &c.; and thereupon a day is given to the said parties to come before our lord the king in eight days of Saint Hilary, wheresoever he shall then be in England, for the said F. to imparl to the said plea, and then to reply to the same, &c.; at which day, before our said lord the king at Westminster, come the parties aforesaid, by their attornies aforesaid: And the said F. as to the said plea of the said F. by him lastly above pleaded in bar, saith, that he, by reason of any thing in that plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against him; because he says, that the said T. sealed and delivered as his deed the said writing-obligatory in the said declaration mentioned to the said F. for a true and just debt due and owing from the said T. to the said F. and not for securing the payment to the said F. of any monies by him the said F. won of the said J. at play, in manner and form as the said J. hath above in that behalf alledged; and this he prays may be enquired of by the country; and the said J. doth so likewise; therefore as well to try this issue as the said other issues between the said parties above joined, the sheriffs are commanded, &c.

Demurrer to replication.

[Set forth the formal parts as usual, these causes following, that is to say, for that the said Francis traverses the matter contained in the said plea, to wit, that the said writing was given for money won at play, and concludes the said traverse to the country, whereas by the established practice and authorities the said traverse ought to have concluded to the court, and with an averment.]

T. WALKER.

Against a sheriff's officer, for carrying a person arrested by

MIDDLESEX, to wit. J. A. complains of G. N. being, &c. of a plea that he render to him one hundred and fifty pounds of lawful, &c. which he owes to and unjustly detains from him; him to a publick house, on 2. Geo. 2. ch. 24.

of

For that whereas by a certain act made in the parliament of our sovereign lord the now king, held at Westminster, in the county of Middlesex, by prorogation the twenty-first day of January, in the second year of the reign of his present majesty, it was amongst other things enacted by the authority of the same parliament, that the sheriff, under sheriff, &c. [here recite the 1st section]: And it was further enacted, by the authority aforesaid, that all and every sheriff, under sheriff, &c. [recite the 2d section]: And it was further enacted by the said act, that every sheriff, &c. [here recite the 16th section], as to the forfeiture of fifty pounds, with treble costs of suit, as by the said act, amongst other things, it doth and may more fully appear: And the said Thomas in fact says, that after the making of the said act, to wit, on the seventh day of April, in the tenth year of the reign of our sovereign lord the now king, the said Thomas Freeman came into the court of our said lord the now king of his said majesty's palace at Westminster, then held at Southwark, in the said county of Surry, within the jurisdiction of the said court, before Lionel, duke of Dorset, then steward of his said majesty's household, and sir Thomas Abney, knight, then clerk of the said court, judges of the said court, by virtue of the letters-patent of Charles the Second, late king of England, &c. bearing date at Westminster the fourth day of October, in the twentieth year of his reign, and then and there, according to the custom of the said court from time immemorial used and approved in the said court, levied his certain plaint against the said Thomas Allen, at the suit of the said T. F. in a certain plea of trespass upon the case, and the said T. F. then and there, according to the custom of the said court, found pledges to prosecute the said plaint, to wit, John Doe and Richard Roe, and such were the proceedings thereupon in his majesty's court of his palace at Westminster aforesaid, that afterwards, to wit, on Friday, the twentieth day of April, in the tenth year aforesaid, at a court of our said lord the king of his palace then holden at Southwark aforesaid, before the aforesaid judges of his said court, by virtue of the said letters-patent there issued out of his said majesty's court, according to the custom of the said court, his majesty's certain receipt, directed to the bearer of the verges of his said majesty's court, and to the officers and ministers of his said majesty's court of his palace aforesaid, and every of them, whereby his said majesty's commission under them, and every of them, that they or one of them should take the said T. A. if he should be found within the jurisdiction of the said court, and him safely keep, so that they or one of them might have his body before the judges of the said court, at the then next court of his said majesty's palace aforesaid, on Friday the twenty-second day of April then next following, to be held at Southwark, in the county of S. aforesaid, to answer to the said T. F. in the said plea of trespass upon the case, to the said T. F. his damage of five pounds; which said writ afterwards, and before the return thereof, to wit, on the said fifteenth day of April, in the tenth year aforesaid, at Westminster aforesaid, within the jurisdiction aforesaid, was delivered to the said George, he the said

said George then and until and after the return of the said writ, being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court of his majesty's palace, to be executed in due form of law, by virtue of which said writ he the said G. then being one of the bearers of the verges of the said household, and an officer and minister of the said court as aforesaid, afterwards and before the return of the said writ, on the twenty-first day of April, in the tenth year aforesaid, at Westminster, in the county of Middlesex, and within the jurisdiction of that court, took and arrested the said T. A. by his said body for the cause aforesaid, at the suit of the said T. F. in the plea aforesaid, and had the said T. A. in his custody for the cause aforesaid: And the said T. A. in fact saith, that he the said G. having arrested the said T. A. and having and detaining him the said T. A. under his said arrest and in his custody as aforesaid, by virtue of and under colour of the said writ, he the said G. afterwards, the same day and year last aforesaid, conveyed and carried the said T. A. so by him the said G. arrested as aforesaid, and being in the custody of the said G. as aforesaid, to a certain publick victualling and drinking house belonging to one T. W. *situate and being in a certain court or place called Angel Court, in W Street, in the parish of St. James's, Westminster, in the said county of Middlesex, and within the jurisdiction aforesaid*, against the will of the said T. A. and kept and detained the said T. A. so under his arrest and in his custody as aforesaid, by virtue and under colour of the said writ, for a long time, to wit, for the space of sixteen hours then next following, contrary to the form of the said statute; for which said offence *be the said G. being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court as aforesaid, according to the form and effect of the said act, forfeited and ought to pay to the said T. A. (he the said T. A. being the person thereby aggrieved) the sum of fifty pounds, whereby an action hath accrued to the said T. A. to have and demand of the said G. the said fifty pounds, parcel of the said one hundred and fifty pounds above demanded: And the said T. A. further in fact saith, that the said T. A. being so under the arrest*

2d Count, for permitting li-
quors to be cal-
led for and had
by the said, &c.
without first
reading the
clause by said
act appointed to
be read, &c.

and in the custody of the said G. as aforesaid, by virtue and under colour of the said writ for the cause aforesaid, to wit, at Westminster aforesaid, and within the jurisdiction aforesaid, he the said G. being one of the bearers of the verges of his majesty's household, and an officer and minister of the said court as aforesaid, then and there, to wit, on the twenty-first of April, in the sixteenth year aforesaid, at Westminster aforesaid, and within the jurisdiction aforesaid, did carry the said T. A. without the consent of the said T. A. being so arrested and in his custody as aforesaid, and against his will, to a certain publick victualling and drinking house belonging to the said T. W. *situate, &c. (as in Italic to jurisdiction aforesaid)*, and then permitting liquors to be called for and had by the said T. A. without the said G. or any person whatsoever shewing, producing, or reading the clause in the said act in that particular mentioned, and by the said act re-

quired

d to be shewn by the said G. to the said T. contrary to the and effect of the said statute, which said last-mentioned offence the said G. being one of the bearers of the verges, &c. (as before) and fifty pounds, &c. parcel of the said sum of one hundred and fifty pounds above demanded: And the said T. A. further in faith, that he the said T. A. (as in the second Count, to *jurisdiction* *aforsaid*) demanded, exacted, and took of and from the said T. A. so being under arrest in his custody by virtue of and colour of the said writ as *aforsaid*, the sum of ten shillings and pence as a gratuity or reward for keeping the said T. A. so kept and in his custody as *aforsaid*, out of a gaol or prison of the said court of his majesty's palace *aforsaid*, contrary to the effect of the said statute, for which last-mentioned offence he the said G. being one of the bearers, &c. (as before) other fifty pounds, the residue of the said one hundred and fifty pounds above demanded; yet the said G. although often requested, hath not yet paid the said one hundred and fifty pounds, or any part thereof, to the said T. A. but he to pay the same hath hitherto wholly refused, and will doth refuse, to the said T. A. his damage of, &c.

MEMORANDUM of St. Hilary last, &c.: London, to wit, John Bosworth, esquire, chamberlain of the city of London, comes in of Peter Puget, being, &c. himself, of a plea that he renders to the said Peter Puget seventy-five pounds of lawful, &c. which he owes and undeniably detains from him: For that whereas in and by a certain act in a parliament of the Lady Ann, queen of Great Britain, at Westminster, in the county of Middlesex, the twenty-day of October, in the twenty-sixth year of her reign, it was amongst other things enacted by the authority of the same parliament, that from and after the determination of the present session of parliament all persons that should act as brokers within the city of London and liberties thereof, should from time to time be licensed so to do by the court of mayor and aldermen of the said city for the time being, and under such restrictions and limitations of honest and good behaviour as that court should think fit and reasonable: And it was further enacted by the said act, that if any person or persons from and after the determination of the then next sessions of parliament, should take upon him to act as a broker, or employ any other under him to act as such within the city or liberties, not being admitted as *aforsaid*, every such person or persons so offending should forfeit and pay to the use of the mayor, and commonalty, and citizens of the said city, for every offence, the sum of twenty-five pounds to be recovered by action of debt in the name of the chamberlain of the said city in any court of record of the said lady the queen, in which no protection, nor wager of law should be allowed or any more than one defence, as in and by the said act, amongst other things, it may more fully appear: And the said John Bosworth in faith, that after the determination of the said session of parliament, to wit, the eleventh of May 1742, he the said John Bosworth was, and ever since hath been, and now is, chamberlain of the

3d Count, for exacting from prisoner as a gratuity.

Declaration by the chamberlain of London, against one for acting as a broker without a licence.

the city of London, and that the said Peter Puget afterwards, to wit, on the same eleventh day of May, in the said, &c. 1742, within the said city of London, to wit, in the parish of St. Mary-le-Bow in the ward of Cheap, did take upon himself to act as a broker, and the said Peter Puget, as a broker, then and there did, for a reward to him the said Peter Puget to be given by one Martha Batigne, sell for the said Martha one hundred and thirty-six pounds seven shillings of a certain stock belonging to the governor and company of the merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the fishery, called the joint stock of South Sea annuities, and also commonly called New South Sea Annuities, and afterwards, to wit, the day and year last above-mentioned, in the parish and ward aforesaid, he the said Peter, as a broker, did procure the said one hundred and thirty-six pounds seven shillings stock to be transferred by the said Martha to one W. Whitmore in the books of the said governors and company, contrary to the form and effect of the said act, he the said Peter there, or at any time before, or since, not being admitted by the said court of mayor and aldermen of the said city to be a broker, or to act or negotiate as a broker within the said city of London and liberties thereof, by which an action hath accrued to the said John Bosworth to demand and have of the said Peter the sum of twenty-five pounds, parcel of the said sum of seventy-five pounds above demanded: And the said John Bosworth further saith, that afterwards, to wit, on the fifteenth day of November, in the year of Our Lord 1744, within the said city, he the said Peter did further take upon himself to act as a broker, [this Count the same as the last]. [3d Count, for acting as a broker in making contracts between merchants and merchants and others, for a reward to be by him received for the same]; yet the said Peter, although often requested, hath not paid the said sum of seventy-five pounds, or any part thereof, to the said John, but hath hitherto refused, and still doth refuse to pay the same; whereby the said John Bosworth saith that he is injured and hath sustained damage to the amount of fifty pounds, and therefore he brings his suit, &c.

Impar-
lance by
plaintiff
that
sheriffs
are citi-
zens, and
prays
a writ of
*venire
facias* to be
directed
to the co-
roner.

AND now at this day, to wit, on Wednesday next after fifteen days from the day of Easter in this same term, to which day, &c. came as well the said plaintiff, &c. as the said P. his attorney, and the said P. P. defends the wrong and injury, when, &c. and *nil debet modo et formâ* issue; whereupon the said J. B. saith, that Walter B. esquire, and Samuel W. P. esquire, who only are the sheriffs of the said city of L. and are also two of the said citizens and freemen of the said city, and for which cause the said J. B. pray a writ of our lord the king of *venire facias* to be directed to the coroner of the said city of L. to summon twelve good and lawful men, &c. to try the issue above joined; and because the said P. doth not deny the said allegation of the said J. B. but is well satisfied with the truth thereof, therefore the coroner of the said city is commanded to have before our sovereign lord the king at West
minster

on , next after , twelve good and lawful the said city, every one of which to have at least ten per year of lands, tenements, or rents, by whom the truth matter may be the better known, and who are not citizens men of the said city, or any way related either to the said to the said P. to recognize and make a jury of the county the said parties of the plea aforesaid, because as well the as the said Peter, between whom is the matter in dispute, omitted themselves to that jury, the same day is given the foresaid at the same place.

in the statute a distinction between ancient brokers and stock jobbers: they differ in their nature relating to contracts between merchants in the mercantile rather to the change of property and securities, which are but trading, and not being when properly so called, were so much 8. & 9. Wil. 3. ch. 32. distinguishes in St. 1. Jac. 1. ch. 21 describes brokers as freemen of London out of companies, the certificate merchants recommends them in trade, understanding different merchandizes, and qualified broker in the Royal Exchange. Ancient brokers are meant by 6. Geo. 2. c. 31. empowers the

magistrates of Bristol to allow such sort of brokers, and the words of 6. Ann, are general to all brokers; yet ought, I think, to be restrained to ancient brokers, as not intending to alter and enlarge the meaning of the old sort of brokers, and the duty on admission given to the city was in lieu of an old revenue which this act took from them. If they intended to include stock-brokers, they would not by that act have left it generally under brokers. The city have not within forty years punished stock-jobbers, who have acted without their admission, and the forms of certificates relate seemingly to older brokers, then I think stock-brokers are not within the meaning of 6. Ann, or liable to the penalties.

MIDDLESEX, to wit. The plaintiff, who sues as well for officers of the poor of the parish of St. M. Westminster, in the county of Middlesex, for the use of the said poor, as for himself complains of defendant, being, &c. of a plea of debt, that he is the said overseers of the poor, for the use of the said poor, the said plaintiff, who sues as aforesaid, three hundred and fifty pounds lawful, &c. which he owes to and unjustly detains from him or that whereas the said defendant, not regarding the said statute in such case made and provided, nor fearing the penalty contained, after the making of a certain act of parliament, in Westminster, in the county of Middlesex, in the twelfth year of the reign of Our Lord the now king, entitled, &c. and after the making of the said act of parliament, and after the twenty-first of June 1772 aforesaid, in that act mentioned, and during the continuance of the said act, to wit, on the fourteenth of November in the twenty-fourth year aforesaid, at and in the said parish of Westminster, in the county of Middlesex aforesaid, and against the weekly bills of mortality mentioned in the said act, did erect, and cause to be built and erected, a certain habitation standing in the parish and ward last aforesaid, and there wrongfully, and against the form of the statute in made and provided, in the building and erecting the said habitation did then and there wrongfully and unjustly erect, or cause to be built and erected, the jambs of
by

Declaration against defendant for building a house, the jambs of the chimnies not being one brick and a half or 13 inches thick in the cellar or lower story.

12. Geo. 3.

chimnies of, in, and belonging to the said house, the jambs of the said chimney *not* being at least *one brick and a half* or thirteen inches thick *in the cellar or lower story*, and then and there finished, or caused to be finished, the said house for habitation, the said jambs of the said chimnies not being then or yet built or erected of the thickness at the least of one brick and a half, or thirteen inches thick, in the cellar or lowest story, contrary to the form and effect of the said statute in such case made and provided; whereby and by force of the said statute in such case made and provided, the said defendant forfeited for his said last-mentioned offence the sum of fifty pounds; and whereby and by force of the statute in such case made and provided an action hath accrued to the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant, for himself and the said overseers of the poor of the parish aforesaid, for the use of the said poor, the sum of fifty pounds so forfeited as aforesaid, parcel of the said sum of pounds above demanded: And [2d Count, for building a house, the jambs of *one of the chimnies* not being thirteen inches or a brick and a half thick in the cellar or lower story: 3d Count, the jambs and *backs* of the chimnies not being of the thickness aforesaid in the cellar or lower story, and *from thence to the upper story of such building*]:

2d Count.

3d Count.

4th Count, for And the said plaintiff, who sues as aforesaid, further says, that the said defendant, not regarding the statute in such case made and provided, nor in the least fearing the penalty therein contained, after the making of the said act of parliament, and after the twenty-fourth of June 1772 aforesaid, in that act mentioned, and during the continuance of the said act, to wit, on the fourteenth of November, in the fourteenth year aforesaid, at and in the said parish of St. Mary, Westminster, in the county of Middlesex aforesaid, and within the weekly bills of mortality mentioned in the said act, did build and erect, or cause to be built and erected, a certain other house for habitation, standing in the parish and county aforesaid, and then and there did unlawfully and against the form of the statute in such case made and provided, in the building and erecting the said house for habitation, wrongfully and unjustly build and erect, or cause to be built and erected, and in the building or erecting of the said house or tenement for habitation *did not build* or erect, or cause to be built or erected, *a party wall between house and house* only of bricks or stone, or of bricks and stone together, and then and there finish, or cause to be finished, the said house for habitation, the said party wall, between the said house and the next house or other building adjoining thereto, not being built only of brick or stone, or of brick and stone together, contrary to the form and effect of the said statute in such case made and provided; whereby, &c.:

5th Count, on 10s. for laying timber into a party wall, the said timber not being used for the purpose mentioned in the act.

And the said plaintiff, who sues as well for the overseers of the poor of the parish of St. M. Westminster, in the county of Middlesex aforesaid, for the use of the poor, as for himself the said plaintiff, further says, [as in the last Count] and the said building and erecting the said house for habitation, laid, or caused to be laid

of a certain party wall of the said house, and between the use and the next house or other building adjoining thereto, pieces of timber, the said timber not being girders, binding ming joists, or the templets under the same, or necessary, square bound timbers as aforesaid, and then and there, or caused to be finished, the said house for habitation, the timber not being used or placed for girders, binders, or trimmings, or the templets under the same, or necessary, sound, round timber, then being laid or affixed unto the said party wall of the said house, and between the said house and the next other buildings adjoining thereto as aforesaid, contrary to the form of the statute; whereby, &c.: And the said plaintiff, as well, &c. and within the weekly bills of mortality returned in the said act, did build and erect, or caused to be erected, a certain other house for habitation, situate in the parish and county last aforesaid, the expence of building which house for habitation did exceed the sum of one hundred and fifty pounds, and then and there did unlawfully and against the form of the statute in that case made and provided, in the building and erecting the said house for habitation, wrongfully, and unlawfully built and erected, or caused to be built or erected, a certain party wall of and belonging to the said house for habitation, *party wall of the said house not being of the thickness of one brick and a half in length, or thirteen inches from the garret floor upwards, and carrying it up of such a thickness to the full height of eighteen inches above the roof or gutters adjoining thereto, contrary to the form of the statute, &c.*: And the said plaintiff, &c. [as he did build and erect, or caused to be built and erected, a certain house for habitation, standing in the parish and county last aforesaid, and did not in the building or erecting of the said house for habitation leave, or cause to be left, five inches at the least of solid brick work at or between the ends of lintels, wall-planks, and bond-timbers used in the aforesaid building, and then and there, or caused to be finished the said house for habitation, it being left five inches at the least of the solid brick work between the ends of lintels, wall-plates, and bond-timbers in the said building of the said house for habitation, contrary to the form and effect of the statute; whereby, &c.; yet the said plaintiff, although often requested, &c. hath not yet paid the sum of one hundred and fifty pounds, or any part thereof, to the said plaintiff and the overseers of the poor of the said parish, for the use of the said poor, or to any of them, but he to pay the same, or any of them, hath hitherto wholly refused and still refuses to pay the same, the said plaintiff, who sues as aforesaid, his damage of one hundred and fifty pounds; and therefore, as well for the said overseers of the poor of the said parish, for the use of the said poor as for himself, he is in suit, &c. Pledges, &c. Drawn by MR. WARREN.

6th Count, for building a party wall in a house that exceeded the sum of 120l. in building, not being of the thickness of one brick and a half in length, or 13 inches, from the garret floor upwards, and carrying it up of such a thickness to the full height of 18 inches above the roof and gutters adjoining thereto, on sec. 1.

7th Count, for laying the timber of the roof into a flank or side wall, the said timber of the roof not being used for the purpose mentioned in the act.

Declaration in
the exchequer,
on the stat. P. &
M. for driving
cattle distrained
out of the hun-
dred. 1. & 2.
P. & M. c. 12.

CARMARTHENSHIRE, to wit. H. L. esquire, a debtor of our lord the king, cometh before the barons of this exchequer on the twenty-eighth of May this term, by P. B. his attorney, and complains by bill against J. W. D. J. and J. T. present here in court the same day, of a plea of trespass on the case: For that whereas by a statute made at a parliament of the lord and lady Philip and Mary, late king and queen of England, begun and holden at Westminster on the twelfth of November, in the first and second year of their reign, and there continued and kept until the dissolution of the same, to wit, the sixteenth of January then next ensuing, it was amongst other things enacted, that from and after the first of April then next coming, no distress of cattle should be driven out of the hundred, rape, wapentake, or lathe where such distress was or should be taken, except that it be a pound overt within the same shire, not above three miles distant from the place where the distress was taken, upon pain that every person offending contrary to the said act should forfeit to the party grieved for every such offence one hundred pounds and treble damages, as by the said statute more fully appears; yet the said defendants, with M. J. &c. not regarding the said statute, on the twenty-ninth of July 1758, at the parish of _____, in the hundred of Cayo, in the county of C. took and distrained certain cattle, to wit, five horses, &c. of the said H. of the price of one hundred pounds, there found for and in the name of a distress, and drove the said cattle to the borough of Carmarthen, in the county of the same borough, above three miles, to wit, twelve miles distant from the parish aforesaid, in contempt of our said lord the now king, to the great damage of the said H. and contrary to the form of the statute aforesaid: And the said H. L. further saith, that the said defendant, together with, &c. not regarding the said statute on the said twenty-ninth of July 1758, at the parish aforesaid, in the hundred aforesaid, in the county of Carmarthen, took and distrained certain other cattle, to wit, fifteen other horses, &c. of the said H. of the price of other three hundred pounds, there found for and in the name of a distress, and drove the same last-mentioned cattle to the borough in the city of the same borough, above five miles, to wit, twelve miles distant from the parish aforesaid, in the county, &c. to the great damage of the said H. and contrary to the form of the statute aforesaid, to the damage of the said H. of one hundred pounds; whereby, &c. Therefore let a jury be made thereof; and because the issue aforesaid between the said parties above joined ought to be tried by men of the next English county to the said city of C. adjacent, and because the county of H. is the next English county to the said county of C. adjacent, therefore, &c.

Venire awarded
to the next Eng-
lish county.

On the stat. of
gaming by the
party to recover
the money lost,
9. Ann. c. 14.

LINCOLNSHIRE, to wit. F. W. late of, &c. to answer J. J. of a plea, &c. twenty-two pounds of, &c. which, &c.; and whereupon, &c. says that the said F. after the first of May 1711, to wit, on the sixth of December 1758, at G. in the said county, was and is indebted to the said J. in twenty-two pounds of, &c. which

which he the said J. had before then and after the first of May 1711, and also within three months next preceding the suing forth of the original writ of the said J. that is to say, on the first of December 1758, at G. aforesaid, lost to the said F. at one and the same sitting, by playing at cards with the said F. and which the said J. had then and there paid to the said F.; whereby and by force, and according to the form of the statute made in the ninth year of the reign of the lady Anne, late queen of Great Britain, at Westminster, in the county of Middlesex, entitled, "An Act for the better preventing of excessive and deceitful Gaming," an action hath accrued to the said J. to demand and have of the said F. the said twenty-two pounds above demanded, being the money so lost and paid by the said J. to the said F. as aforesaid; yet the said F. although, &c. hath not, &c. but hath, &c. to the said J. his damage of twenty-two pounds, and therefore, &c.

MIDDLESEX, to wit. J. W. against R. P. in Common Pleas: (a) Declaration
 For that whereas said plaintiff, after the making of a certain act on stat. 32. Geo.
 of parliament in the second year of the reign of the lord the now 2. c. 28. com-
 king, entitled, "An Act for the Relief of Debtors, with respect monly called
 " to the Imprisonment of their Persons," that is to say, on the the Lord's Act;
 thirteenth of April A. D. 1749, being a prisoner in his majesty's plaintiff sues in
 goal of Newgate, in the said county, in the custody of the then an action on the
 sheriff of the county aforesaid, in execution for the sum of twenty- case for 2s. 4d.
 eight pounds ten shillings, at the suit of said defendant, on the per week, on
 same day and year, being the second day of the term of Easter in the note given
 that year, was brought up into the court of our said lord the king, on keeping him
 before the king himself (the said court then and still being held at in prison.
 Westminster, in the said county of Middlesex), by virtue of a
 rule of the same court before made for that purpose, in order to his
 being then discharged out of the custody of the then sheriff, as to
 the said execution with which he stood charged, at the suit of the
 said defendant, according to the form and effect of the said act of
 parliament; and said defendant on that occasion then and there ap-
 pearing in the same court opposed the discharge of said plaintiff, and
 insisted upon his being detained in prison; and thereupon said de-
 fendant, in pursuance of said act of parliament, on same day and
 year aforesaid, at Westminster aforesaid, did make his certain note
 in writing with his own hand thereunto subscribed, bearing date
 same day and year, and by said note did promise to pay to said plain-
 the sum of two shillings and fourpence on every Thursday (b) (b) Qu. If not
 every week from the date of said note, for all such time as he is Sunday.
 the said plaintiff should continue in prison at suit of said defendant,
 thereupon said defendant was not discharged, but was then and
 there carried back to the goal of Newgate there at the suit of said
 defendant; by reason of which said premises, and by force of said
 act of parliament, said defendant became liable to pay to said plain-
 the sum of two shillings and fourpence on every Thursday in
 every week from the date of the said note, for all such time as he

(a) This is a declaration in *case*, and not in *debt*.

the said plaintiff should continue in prison at the suit of defendant and being so liable, he said defendant, in consideration thereof afterwards, to wit, on same day and year last mentioned, at Westminster aforesaid, undertook, &c. to pay to him the said plaintiff two shillings and fourpence every Thursday in every week from the date of said note for all such time, &c. at the suit of said defendant; and said plaintiff avers, that he said plaintiff did continue in prison in the said goal of Newgate, in the custody of the sheriff of the county aforesaid, at suit of said defendant in the cause aforesaid, a long space of time, that is to say, from the thirteenth day of April, A. D. 1749, being the date of the note, until and upon the twenty-seventh day of October then following, and although said defendant did in pursuance of said note pay to the plaintiff the said sum of two shillings and fourpence every Thursday in every week for part of the said time abovementioned, to wit, from said thirteenth day of April, in the year aforesaid, to the twenty-second day of June next following nevertheless the said defendant not regarding his said promise and undertakings as to the payment of said weekly sum for the residue of said time, but contriving, &c. did not pay to said plaintiff the said sum of two shillings and fourpence on every Thursday in every week for the residue of the said time, that is to say, from the twenty-second day of June in the year aforesaid, until the twenty-seventh day of October then next, but said several weekly sums of two shillings and fourpence so respectively due and payable every Thursday in every week, for each of said weeks for the residue of said time, being eighteen weeks, amounting to a large sum of money, to wit, to forty-two shillings, still remain due and unpaid to said plaintiff; and said defendant to pay the same to said plaintiff, although often requested, hath hitherto altogether refused, and still doth refuse, wherefore he saith he was injured and hath sustained damages to the value of twenty pounds, and therefore he brings his suit, &c.

Chief Justice Willes in a case of this kind said the action would lie, and that defendant should not plead to the old judgment as a set off; however, I ven-

tured to plead double, viz. *non assumpsit* and such set-off to the above declaration. T. WARRINGTON

Declaration *quod* by party
grieved against
defendants, for a
fraudulent judgment
suffered by one and recovered by the
other, to deprive plaintiff of
a just debt the
recoverer owed
him. 13. Eliz.
a. 5.

MIDDLESEX, to wit. George Crossley, who sues as for our sovereign lord the king as for himself, complains of The Marriott and James Scott, being, &c. of a plea that they released to our said lord the king and said plaintiff, who sues as afore-
said, six hundred and seventy pounds of lawful, &c. which they owe and unjustly detain from them, &c.; for that whereas said defendants of their malice, fraud, collusion, and guile, after the eleventh day of June, which was in the thirteenth year of the reign of our late sovereign lady queen Elizabeth of England, France and Ireland, to wit, on the seventh day of July 1781, at Westminster, in the county of Middlesex aforesaid, were parties

cc

certain feigned, covenous, and fraudulent suit, and in which said
 at a certain feigned, covenous, and fraudulent judgment was on the
 the day and year last aforesaid, to wit, on the term of the Holy
 Trinity, in the twenty-first year of the reign of our lord the now
 king, entered of record in the court of our lord the king before
 the king himself, the said court then and still being held at West-
 minster, in said county of Middlesex, by which said judgment the
 said Thomas did feignedly, covenously, and fraudulently recover
 against the said James five hundred pounds debt, and also sixty-
 three shillings damages, to the purpose and intent to delay, hinder,
 and defraud said plaintiff of his just and lawful debt, he the said
 plaintiff then being a creditor of said James for a certain sum of
 money, to wit, the sum of one hundred and thirty-four pounds
 and three shillings and one penny, and said judgment did then and there-
 to, enure, avow, maintain, justify, and defend as true, simple,
 and due, *bona fide* and upon good consideration, by reason whereof,
 and by force of the statute in such case made and provided, an ac-
 tion hath accrued to said plaintiff, who sues as aforesaid (he said
 plaintiff being the party aggrieved by the said feigned, covenous,
 and fraudulent suit and judgment), to demand and have for our
 said lord the king and for himself the said plaintiff, of and from the
 said defendants, the sum of *five hundred pounds*, being the sum of
 money contained and recovered by the said Thomas against said
 James by said feigned, covenous, and fraudulent judgment, parcel
 of said sum of six hundred and seventy pounds above mentioned:

and *whereas* also after the tenth day of June, in the thirteenth^{2d Court}
 year of the reign of our late sovereign lady queen Elizabeth of
 England, France, and Ireland, &c. on said day of July
 1581, they said defendants intending to delay, hinder, and defraud
 said plaintiff of a just and lawful debt, to wit, of the sum of one
 hundred and thirty-four pounds five shillings and one penny due
 by said James to said plaintiff, they the said defendants did feign-
 edly, covenously, and fraudulently issue out, and cause and procure
 to be issued out of the court of our said lord the king, before the
 king himself, the said court then and still being held at Westmin-
 ster, in the county of Middlesex, a certain feigned, covenous, and
 fraudulent execution, grounded upon the aforesaid feigned, coven-
 ous, and fraudulent judgment, to wit, a certain writ of our said
 lord the king, called a *fieri facias*, directed to the sheriffs of Lon-
 don, whereby said sheriffs were commanded to levy of the goods
 of said James five hundred pounds debt, and sixty-three shillings
 damages; and to have that money before the said lord the king on
 the day then next after the morrow of All Souls, to render to said
 Thomas for the said debt and damages, whereof it was alledged
 that said James was convicted, as appeared to our said lord the king
 of record, and the said feigned, covenous, and fraudulent execu-
 tion was afterwards issued, they said defendants did put, and each
 of them did put, enure, and did avow, justify, and defend as true,
 simple, and done *bona fide*, and upon good consideration, and af-
 terwards, to wit, on the same day and year last aforesaid, at West-

One
and
pounds.

hundred
seventy

minster aforesaid, they said defendants did cause and procure the sheriffs of London, under colour of said feigned, covenant, and fraudulent writ of execution as aforesaid, to seize, and take into their hands and possession, divers goods and chattels of the said James of the value of *six hundred and seventy* pounds, and upwards, and afterwards then and there sold the same, whereby said plaintiff was delayed, hindered, and defrauded of his said debt of one hundred and thirty-four pounds five shillings and one penny, and of said goods whereon to levy said debt so as aforesaid due by said James to said plaintiff, and said plaintiff was wholly delayed, hindered, and prevented from making the said debt of said goods and chattels by reason of said feigned, covenant, and fraudulent writ of *fiери facias*, as execution as aforesaid, by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to said plaintiff, who sues as aforesaid, by being the party aggrieved by said feigned, covenant, and fraudulent execution so sued as aforesaid, to demand and have for our said lord the king and for himself the said plaintiff, of and from the said defendants, they the said defendants being the parties to the said feigned, covenant, and fraudulent execution, and knowing thereof, the whole value of the said goods and chattels so as aforesaid feignedly, covenantously, and fraudulently taken and seized, to wit, the sum of *seventy pounds*, residue of the said six hundred and seventy pounds above demanded; yet, &c.; common conclusions to *qui tam* declarations.

One
and
pounds.

hundred
seventy

J. WALLACE.

Declaration in
debt on stat. 2.
Geo. 2. c. 24.
s. 7. for cor-
rupting a person
to vote at an e-
lection for a
member of par-
liament for a
borough.

SOMERSETSHIRE, to wit. Richard Combe complains of Benjamin Potts, being in the custody, &c. in a plea that he render to plaintiff five hundred pounds of lawful, &c. which he owes to and unjustly detains from him; for that whereas the borough of Ivelchester, in the county of Somerset, is an ancient borough, and for a long space of time two burghesses of the said borough have been elected and sent to serve as burghesses for the said borough in the parliament of this kingdom, to wit, at Ivelchester aforesaid: And said plaintiff further says, that on the twenty-first day of March, in the first year of the reign of our present sovereign lord the now king, under the great seal of Great Britain, a writ was issued out of his said majesty's court of chancery, the said court then and still being held at Westminster, in the county of Middlesex, directed to the then sheriff of the said county of Somerset, by which said writ our said lord the king reciting: "That whereas by the advice and assent of his said majesty's councils, for certain ardent and urgent affairs concerning his said majesty's government, the state, and defence of this kingdom of Great Britain and the church, our said lord the king had ordered a certain parliament to be holden at his said majesty's city of Westminster, on the thirteenth day of May then next ensuing, and there to treat and have conference with the prelates, great men, and peers of his majesty's realm, our said lord the king commanded and strictly enjoined

Recital of the
writ.

the

the said sheriff, that proclamation being made of the day and place aforesaid, in the next county court of the said sheriff to be holden after the receipt of that his said majesty's writ, two knights of the best fit and discreet of the said county, girt with swords; and of every city of the same county, two citizens; and of every borough of the same county, two burgessees of the most sufficient and discreet, freely and indifferently by those who at such proclamation should be present, according to the form of the statute, &c. the sheriff should cause to be elected; and the names of those knights, citizens, and burgessees so to be elected (whether they should be present or absent) the said sheriff should cause to be entered in certain indentures to be thereupon made between the said sheriff and those who should be present at such election, and there the day and place aforesaid, should cause to come in such manner that the knights for themselves, and the commonalty of said county, and the citizens and burgessees for themselves, and the commonalty of the said cities and boroughs respectively, might have from time to time full and sufficient power to do and consent unto those things which then and thereby the common council of his majesty's kingdom (by the blessing of God) should happen to be ordained upon the aforesaid affairs, so that for want of such power, or through an improvident election of such knights, citizens, or burgessees, the aforesaid affairs might in no wise remain unfinished; willing nevertheless, that neither said sheriff, nor any other sheriff of his said majesty's said kingdom should in anywise be elected, and the election in said sheriff's full county so made secretly and openly under said sheriff's seal, and the seals of those who should be present at such election, the said sheriff should certify to our said lord the king, in his majesty's chancery, at the day and place aforesaid, without delay, remitting to our said lord the king one part of said indenture annexed to said writ, together with that writ:" And said plaintiff further says, that afterwards, before the return of said writ, that is to say, on said, &c. the writ so directed to the sheriff of said county of Somerset, was delivered to John Adams, esquire, who then and there was sheriff of the said county of Somerset, to be executed in due form of law, at Ivelchester aforesaid, by virtue of which said writ the sheriff afterwards, and before the return thereof, to wit, on said, &c. at the borough of Ivelchester aforesaid, made his precept in writing, sealed with the seal of his office of sheriff of county of Somerset, directed to the sheriff of said borough of Ivelchester aforesaid, of and for the election within the said borough of two burgessees of said borough, according to the form and effect of the said writ; by virtue of which said precept afterwards, before the return thereof, to wit, on the twenty-seventh day of March, in the first year of the reign aforesaid, at the borough of Ivelchester aforesaid, an election of two burgessees of said borough to serve as burgessees of said borough in said then next parliament to be holden as aforesaid, was had and made, which said election was the first and next election of burgessees of said borough to serve

as burgesſes for ſaid borough in ſaid parliament of this kingdom, after the committing of the ſeveral offences hereinafter mentioned: And ſaid plaintiff further ſays, that before the iſſuing of ſaid writ, to wit, on the firſt day of March, in the ſaid firſt year of the reign aforeſaid, and before that time at ſaid borough of Ivelcheſter, a general election of representatives to ſerve in parliament for the ſeveral counties, cities, and boroughs of this kingdom being then and there ſhortly expected, the right honourable John Percival, commonly called the earl of Egmont, in the kingdom of Ireland, and Joſeph Toulſon Lockyer, eſquire, and the aforeſaid Richard Combe, the now plaintiff, had declared and offered themſelves as candidates, that of them two might be choſen and returned to ſerve as burgesſes of and for ſaid borough in the then next parliament of this kingdom; and ſaid John Percival, commonly called the earl of Egmont, in the kingdom of Ireland, and the ſaid Joſeph Toulſon Lockyer and Richard C. eſquire, continued and were candidates for the purpoſes aforeſaid, for a long time, to wit, from ſaid firſt day of March, in the ſaid firſt year, &c. until and at the time of the ſaid election of two burgesſes, to ſerve as burgesſes for the ſaid borough in the then next parliament of this kingdom, to wit, at the borough of Ivelcheſter aforeſaid; yet the ſaid defendant well knowing the premiſes, but not regarding the ſtatute in ſuch caſe made and provided, and the penalties therein contained, after the twenty-fourth day of June, in the year of Our Lord 1739, and whiſt he, John Percival, commonly called the earl of Egmont, in the kingdom of Ireland, and the ſaid Joſeph Toulſon Lockyer, eſquire, and Richard Combe, eſquire, were candidates as aforeſaid, to wit, on the fifteenth day of March, in the ſaid firſt year of the reign of our ſaid lord the now king, at the borough of Ivelcheſter aforeſaid, *did unlawfully corrupt one* James White, who then and from thence until and at the ſaid election of burgesſes, to ſerve as burgesſes for the borough aforeſaid, in the ſaid then next parliament of this kingdom, had a right to vote in that election, to give his vote for ſaid Joſeph Toulſon Lockyer, eſquire, and the above-named John Percival, commonly called the earl of Egmont, in the kingdom of Ireland, that they the ſaid Joſeph Toulſon Locker, and John Percival, commonly called, &c. might be choſen to ſerve as burgesſes for ſaid borough in ſaid then next parliament of this kingdom(a), *by then and there corruptly giving to ſaid James White, a large ſum of money, to wit, the ſum of five guineas as a gift or reward* for ſaid James White to give his vote for ſaid Joſeph Toulſon Lockyer, eſquire, and ſaid John Percival, commonly called, &c. in ſaid election for burgesſes for the ſaid borough, in ſaid next parliament of this kingdom, againſt the form of the ſtatute in ſuch caſe made and provided; whereby and by force of the ſaid ſtatute an action hath accrued to ſaid plaintiffs, to demand and have of and from ſaid defendant the ſum of five hundred pounds above demanded; yet ſaid defendant, although often requested,

(a) The nature and amount of the gift or reward muſt be ſet out, or judgment may be arreſted. *Vide* Davy v. Baker 4. Burr. 24. 71.

h not as yet paid to said plaintiff the said sum of five hundred
nds above demanded, or any part thereof, but hath hitherto
olly refused, and still doth refuse, to the damage of said plaintiff
wenty pounds, and therefore he brings his suit, &c.

ITT } And the said Benjamin, by P. R. his attorney, Plea in abate-
suit of } comes and defends the wrong and injury, when, &c. ment of a *qui*
MBE. } and prays judgment of the said bill; because he says, *tan* action, that
is same term of St. Michael, before our lord the king at a prior suit is
tminster, came one George Lake, by E. Q. his attorney, depending a-
exhibited in the court of our lord the king here, to wit, at gainst defendant
tminster aforeaid, his certain bill against the said defendant, for the same
e custody of the marshal of the Marshalsea of our said lord the cause of action
, before the king himself, of a plea of debt due, found pledges at the suit of one
rosecuting, to wit, John Doe and Richard Roe, and by the G. L.
ill the said George Lake complains against the said defendant,
g in the custody, &c. of a plea that he should render to the said
rge Lake four thousand pounds, which he owed to and unjustly
ned from him, &c. : For that whereas, &c. [set forth the de-
tion in the prior suit], as by the record and proceedings there-
maining in the said court of our said lord the king, before the
himself, to wit, at Westminster aforeaid, more fully appears,
h said suit still remains depending and undetermined in the
ourt of our said lord the king, before the king himself here,
t, at Westminster aforeaid; and the said defendant avers that
aid Benjamin Pitt, named in the said bill of the said George
, and him the said Benjamin, the now defendant, named in
aid bill of the said plaintiff are one and the same person, and
istinct and different persons, and the said James White, nam-
the said bill of the said George Lake, and the said James
e, named in a bill of the said plaintiff, are one and the same
n, and not distinct or different persons; and that the said sup-
offence in the said bill of the said George Lake mentioned,
he said supposed offence in the said bill of the said plaintiff
ioned, are in fact the very same offence, and not distinct or
ent offences, to wit, at Ivelchester aforeaid; and this he is
to verify; wherefore he prays judgment of the said bill of
aid plaintiff, and this same may be quashed, &c.

J. NASH.

nd the said plaintiff says, that notwithstanding any thing Replication to
pleaded by the said defendant, the aforeaid bill of the said the above plea
ought not to be quashed; because he says, that after the in abatement,
ting of the said several offences in the said bill mentioned, shewing the
fore the day of exhibiting the said bill, and also before the time of suing
exhibiting the said supposed bill of the said George Lake in out plaintiff's
aid plea mentioned, that is to say, on the thirtieth day of June, writ.
second year of the reign of our said lord the now king, he
aid plaintiff for the recovery of his aforeaid debt *sued forth*

out of the court of our lord the now king, before the king himself, the said court being then and still at Westminster, in the county of Middlesex, *a certain writ* of our lord the now king called *a latitat against the said defendant*, directed to the then sheriff of the county of Surry, by which said writ our said lord the now king commanded the said sheriff of Surry aforesaid, that he should take the said sheriff if he might be found in his bailiwick, and safely keep him so that he might have his body before our said lord the king, at Westminster, *on Saturday next after the morrow of All Souls then next following*, to answer to said plaintiff in a plea of trespass, and that said sheriff should then have there that writ, which said writ he said plaintiff sued forth out of said court of our said lord the king, before the king himself, with intent to compel the appearance of said defendant at the return of said writ, in said court here, and that said plaintiff might thereupon implead said defendant, and declare against him in the plea aforesaid, according to the course and practice of the said court, for the recovery of his debt aforesaid above demanded: *And* said plaintiff further saith, *that said defendant was afterwards*, and before the return of said writ, to wit, *on the said twenty-ninth day of July, in the second year aforesaid*, at Kingston, in the county of Surry aforesaid, in due manner *served with a copy of said writ*, according to the term of the statute in such case made and provided; and that said defendant afterwards, at the return of said writ, to wit, on Saturday next after the morrow of All Souls now last past, appeared in said court here to the writ aforesaid, by said P. R. his attorney, at the suit of said plaintiff, and that thereupon said plaintiff in this present Michaelmas term, to wit, on said Saturday next after the morrow of All Souls now last past, according to his intention aforesaid, exhibited his aforesaid bill against said defendant in form aforesaid, for the recovery of his debt aforesaid above demanded; and this he is ready to verify, wherefore he prays judgment, and that his said bill may be adjudged good, and that said defendant may answer over thereto, &c.

J. YATES.

Rejoinder,

shewing the
time of issuing
of the writ of
G. L. and that
it was prior
to and without
knowledge of
plaintiff.

And said defendant saith, that after the committing of the said supposed offences in said bill mentioned, and long before the day of exhibiting the said respective bills of said plaintiff and G. Lake, that is to say, *on said thirtieth day of June, in said second year of the reign, &c.* the said G. Lake sued forth out of the said court of our said lord the king, before the king himself, the said court then and still being held at Westminster, in the said county of Middlesex, *a certain writ* of our said lord the king called *a latitat*, against him said defendant, directed to the then sheriff of the county of Surry, by which said writ our said lord the now king commanded said then sheriff of said county of Surry, that he should take him said defendant if he might be found in his bailiwick, and safely keep him, so that he might have his body before our said lord the king at Westminster, *on Saturday next after the morrow of All Souls then next ensuing*, to answer to said George Lake, in
a plea

plea of trespass, and that said sheriff should then have there that writ: *And* said defendant further saith, that afterwards, and before the return of said writ, *and before said defendant was served with a copy of said writ so sued out by said plaintiff, or had notice of that writ's being sued, or being intended to be sued out, to wit, on the seventh day of July, in the second year aforesaid, at Kingston aforesaid, in said county of Surry, he said defendant was served with a copy of said writ so sued out by said George Lake, with an English notice at the bottom thereof, according to the form of the statute in such case made and provided, and that in obedience to said writ, he the said defendant, according to the course and practice of said court, at the return of said writ so sued out by said George L. to wit, on Saturday next after the morrow of All Souls now last past, appeared in the said court here to said writ sued out by said G. L. and that thereupon said George Lake in the term of St. Michael, to wit, on Saturday next after the morrow of All Souls now last past, exhibited his bill against said defendants in form aforesaid, for the recovery of said supposed debt by him demanded as aforesaid; and this said defendant is ready to verify, wherefore as before he prays judgment, &c. and that the same may be quashed, &c.*

J. NASH.

And said plaintiff saith, that notwithstanding any thing above pleaded by said defendant, the aforesaid bill of him said plaintiff ought not to be quashed, because he says, that by the course and practice of the court of our said lord the king, before the king himself, writs of *latitat* sued out before the end of any term are tested as of the term next preceding the time of their being so sued; but said plaintiff further saith, that said writ of *latitat* above pleaded to have been sued forth out of the said court here by the above-named G. L. although the same was attested on the thirtieth day of June aforesaid, in said second year of his present majesty's reign, being the last day of Trinity term in that year, was really and in fact sued forth on the thirtieth day of July in the same year, and not before, and that the aforesaid writ of *latitat* which he said plaintiff sued forth out of our court of our lord the king here against said defendants as aforesaid, and which was tested on the thirtieth day of June aforesaid, in said second year of his present majesty's reign, was really and in fact sued out by the said plaintiff against said defendant for the cause aforesaid, long before said writ of *latitat* in said rejoinder mentioned was really and truly sued out by said G. that is to say, on the first day of July, in said second year of his said majesty's reign, to wit, at Ivelchester aforesaid; and that he said plaintiff afterwards, and with all convenient speed, to wit, on the day and year in the above replication for that purpose mentioned, did serve a copy of his said writ on said defendant, and on this appearance of said defendant for the cause made in the manner aforesaid; and this he said defendant is ready to verify, wherefore he prays judgment that his aforesaid bill may be adjudged good, and that said defendants may answer over thereto.

Surrejoinder, that writs issuing in vacation are tested as of the last day of the preceding term; but tho' G. L.'s writ was so tested, it was in fact sued out afterwards, and after plaintiff's.

J. YATES.

And

Demurrer to
surrejoinder.

Causes.

Departure.

Hath not tra-
versed suing out
writ by G. L.

And said defendant saith, that said plea of said plaintiff by way of surrejoinder above pleaded, and the matters therein contained, are not sufficient in law to maintain said bill of said plaintiff against him said defendant, to which said surrejoinder, in manner the same is above pleaded and set forth, said defendant is not under any necessity nor in anywise bound by the law of the land to answer; and this said defendant is ready to verify; wherefore for want of a sufficient surrejoinder in this behalf, said defendant as before prays judgment of said bill of said plaintiff, and that the same may be quashed, &c. and for causes of demurrer in law, according to the form of the statute in such case made and provided; and defendant sets down and shews to the court here the cause following, to wit, for that said surrejoinder does not sustain the above replication of said plaintiff, but is a departure therefrom in this, that by said replication of said plaintiff, in order to maintain a priority of suit, hath pleaded and insisted that he sued out a *latitat* in this cause against said defendant on the *thirtieth day of June*, in the second year of the reign of his present majesty, and yet by his said surrejoinder he hath insisted that such writ of *latitat* was sued out at a different time, to wit, on the *first day of July*, in the second year aforesaid; and also for that said plaintiff hath not traversed or denied the service of the said writ of *latitat* sued out by said G. L. to be before the service of said writ of *latitat* sued out by said plaintiff, as he said defendant hath by his said rejoinder above alledged, and the said rejoinder is in other respects uncertain, insufficient, and informal, &c.

J. NASH.

Joinder in said
demurrer.

And said plaintiff prays a day to imparl to said demurrer, and it is granted him, &c. and thereupon a day is given to the parties aforesaid, to come before our lord the king, at Westminster, until Wednesday next after fifteen days of Easter, that is to say, for said plaintiff to imparl to said demurrer, and then to join in demurrer thereto, at which day before our lord the king, at Westminster, came the parties aforesaid, by their attornies aforesaid, and said plaintiff saith, that said plea of said plaintiff by way of surrejoinder above pleaded, and the matters therein contained are sufficient in law to maintain said bill of said plaintiff to be good against said defendant, which said surrejoinder, and the matters therein contained, said plaintiff is ready to verify, and prove as the court shall award; and because said plaintiff hath not answered said surrejoinder, nor denied the same as plaintiff as before prays judgment, and that said bill may be adjudged good, and that said defendant may answer over thereto; but because the court of our lord the king here is not yet advised what judgment to give in the premises, a day is therefore given to the parties aforesaid, to come before our lord the king, at Westminster, until next, after to hear judgment thereon, for that the court of our said lord the king here is not yet advised thereof, &c.

At

On the day came as well said plaintiff, by his attorney afore- Judgment
said defendant by his attorney before named, before our thereon for
ng, at Westminster, but because, &c. [there was ano- plaintiff of dis-
nuance the same as the last] at which day came as well penderit esset.
ff, by his attorney aforesaid, as said defendant by his attor-
named, before our lord the king, at Westminster, where-
id singular the premises having been seen and here fully
by the court of our said lord the king, and mature de-
being thereupon had, for that it appears to this court
lea of said plaintiff by way of surrejoinder above pleaded,
atters therein contained, are sufficient in law to main-
d bill against said defendant, it is considered by the same
, that the said defendant have a further day to plead in
d declaration of said plaintiff, and a further day is here
aid court of our said lord the king, before the king him-
parties, until next after . to plead to said declara-
plaintiff, at which said day as well said plaintiff, by his
ore said, as also said defendant, by his attorney above-
peared before our sovereign lord the king, at Westmin-
aid defendant, by his attorney, defends the wrong and
en, &c. and so for that, &c.

MIDDLESEX, to wit. W. J. late of, &c. was summoned Declaration in
to J. A. of a plea that he render to him the sum of one debt against a
nd sixty two pounds of lawful, &c. which he the said sheriff's officer
wes to him, and unjustly detains, &c. and whereupon for extortion.
. A. by A. B. his attorney, says, that one J. W.
out of the court of our lord the king of the bench, at
er, a certain writ of our said lord the king against the
at the suit of him the said J. W. called a *capias ad re-*
directed to the sheriff of Middlesex, by which said writ
d the king commanded the said sheriff that he should take
A. if he should be found in his bailiwick, and him safely
hat he might have his body before our said lord the
ices, at Westminster, on the morrow of All Souls, to
said J. W. in a plea, wherefore with force and arms the
ie said J. W. at Westminster, he broke, and other
him did, to the great damage of the said J. W. and
said lord the king's peace, and also that the said J. A.
ver the said J. W. according to the custom of our said
ing's court of common bench, in a certain plea of tres-
case upon promises, to the damage of the said J. W.
unds, and that he should have there then that writ,
writ, before the delivery thereof to the said sheriff, was
equiring bail from the said J. A. for ten pounds, by
affidavit of the cause of action of the said J. W. against
A. in that behalf, filed of record in the said court of our
e king of the bench, at Westminster, according to the
is statute in such case made and provided, which said
writ

writ so indorsed as aforesaid, afterwards, and before the return of the said writ, afterwards, to wit, on, &c. at, &c. was delivered to A. B. and C. D. esquires, the said A. B. and C. D. then and until, and at and after the return of the said writ, being sheriff of the said county of Middlesex, to be executed in due form of law, by virtue of which said writ the said A. B. and C. D. so then being sheriff of the said county of Middlesex as aforesaid, and afterwards, and before the return of the said writ, to wit, on, &c. for having execution of the said writ, duly made his certain warrant in writing, directed to the said W. J. who then and from thence until and at and after the return of the said writ, was one of the bailiffs of the then sheriff of the said county of Middlesex, by which said warrant the said then sheriff of the county of Middlesex, commanded the said W. J. that he should take the said J. A. if he should be found in his the said sheriff's bailiwick, and him safely keep, so that he the said then sheriff might have his body before our said lord the king's justices, at Westminster, at the return of the said writ, to answer to the said J. W. according to the exigence of the said writ, which said warrant was also marked for bail for ten pounds, and which said warrant so marked as aforesaid, afterwards, and before the return of the said writ, to wit, on, &c. at, &c. was delivered to the said W. J. he the said W. J. so then and until and after the return of the same writ, being one of the bailiffs of the said then sheriff of Middlesex, to be executed in due form of law, by virtue of which said warrant the said W. J. so being one of the bailiffs of the said then sheriff of Middlesex as aforesaid, afterwards, and before the return of the said writ, to wit, on, &c. took and arrested the said J. A. by his body for the cause aforesaid, at the suit of the said J. W. and then and there had him the said J. A. in his custody: And the said J. A. further says, that the said W. J. × having so taken and arrested the said J. A. by his body for the cause aforesaid, and so having him in custody aforesaid, by virtue of the said writ and warrant, the said W. J. so then being such bailiff as aforesaid, he the said W. J. on, &c. at, &c. demanded, took, and received of and from the said J. A. the sum of *nineteen shillings and sixpence for waiting till the said J. A. had given bail to the said writ*, which said sum of money so demanded, taken, and received by the said W. J. of the said J. A. for the cause aforesaid, in manner aforesaid, then and there was and is a greater sum of money than at that time of taking thereof was by law allowed to be taken or demanded on that occasion, contrary to the form of the statute in such case made and provided, whereby he the said W. J. so then being one, &c. according to the form of, &c. forfeited for his said offence the sum of fifty pounds; and whereby and by force of the statute in that case made and provided, an action hath accrued to the said J. A. to demand and have of and from the said W. J. the said fifty pounds so forfeited as aforesaid, parcel of the said one hundred and sixty-two pounds above demanded: And whereas, &c. [2d Count, exactly the same as the last, only instead of the words in Italics, say,

“ ten

'ten shillings and sixpence' for detaining him the said W. J.":
 And whereas, &c. [3d Count like the former, 'only instead of the words in Italic say, one pound seventeen shillings as and for the
 he expences of him the said J. A. during the time he the said
 . A. was so under arrest and in custody as aforesaid"]: And
 whereas, &c. [the same as the last, till you come to this mark x,
 then conclude as follows]: so being a bailiff, and an officer of
 the said then sheriff of the said county of Middlesex, and so having
 him the said J. A. in his custody as aforesaid, he the said W. J.
 afterwards, to wit, on, &c. took of and from the said J. A. C. A.
 and C. H. a certain bail bond or obligation for the appearance of
 the said J. A. at the return of the said last-mentioned writ, ac-
 cording to the exigence thereof: And the said J. A. further says,
 that the said W. J. so being, &c. took of and from the said J. A.
 the sum of twenty shillings for the making of the said obligation,
 which said sum of money so demanded, &c. &c. [as before]: 5th
 Count, money had and received: 6th Count, money paid, &c.;
 it, &c.; common conclusion in debt.] V. LAWES.

Nil debet, &c. Therefore the sheriff is commanded that he Plea.
 use to come here, on, &c. twelve, &c. by whom, &c. and who
 either, &c. to recognize, &c. because as well, &c.

LONDON, to wit. William Morfs, who sues in this behalf For a counter-
 well for our present sovereign lord the king as for himself, com-
 feit stamp on
 plate.
 12. Geo. 2. c.
 26. s. 8. pe-
 nalty 100l.
 tains of Thomas Swift, being, &c. who as well, &c. of four
 hundred pounds of lawful money of Great Britain, which he owes
 them, and unjustly detains, &c. for this, that the said Tho-
 mas after the twenty-eighth day of May, in the year of Our Lord
 1739, to wit, upon the twenty-fifth day of May, in the year of
 our Lord 1750, at London, to wit, in the parish of the Blessed
 Mary of the Arches, in the ward of Cheap, did unlawfully and
 contrary to the form of the statutes in such cases lately made and
 provided, mark and stamp, and cause and procure to be marked and
 stamped, a certain piece of wrought plate of silver, to wit, a sil-
 ver haft for a knife, with a counterfeit mark, stamp, and impres-
 sion to resemble the impression of one of the marks and stamps of
 the Company of Goldsmiths in London, that is to say, the lion
 passant, then and long before used by the said company, in pur-
 suance of the said statute in that case made and provided, by reason
 hereof the said Thomas, by force of the said statute in that case
 made and provided, hath forfeited the sum of one hundred pounds
 for the said offence, one moiety thereof to our said lord the king,
 and the other moiety thereof to the said William, who as well, &c.
 whereby and by force of the statute in that case made and pro-
 vided, an action hath accrued to the said William, who as well,
 &c. and to demand and have as well for our said lord the king as
 for himself of the said Thomas, the said one hundred pounds, par-
 t of the four hundred pounds above demanded: And the said
 William,

3d Count.

William, who as well, &c. further saith, that the said Thomas after, &c. and at, &c. did unlawfully and contrary to the form of the said statute, cast, forge, and counterfeit, and cause and procure to be cast, forged, and counterfeited, a mark, stamp, and impression to resemble a mark, stamp, and impression to be made with a mark and stamp of the said Company of Goldsmiths, in London, then and long before used by the said Company of Goldsmiths, in London, in pursuance of the said statute, by reason whereof, &c.: Did unlawfully and contrary to the form of the said statute sell and manufacture of silver, to wit, another silver haft for a knife, with a forged and counterfeited mark, stamp, and impression thereon put to resemble a mark, stamp, and impression of the said Company of Goldsmiths, in London, he the said Thomas then and there knowing the said mark, stamp, and impression on the said manufacture last above mentioned to be forged and counterfeited, by reason whereof, &c.

For selling wine
by retail with-
out licence.
12. Car. 2. c.
15. s. 1.

MIDDLESEX, to wit. William Bennett, who prosecutes in this behalf as well for our sovereign lord the king as for himself, complains of John Smith, being in the custody of the marshal, &c. of a plea that he render to our said lord the king and to the said William, who prosecutes as well for his said majesty as for himself, two hundred pounds of lawful money, &c. which to the said lord the king and to the aforesaid William, who prosecutes as well for his said majesty as for himself, he oweth and unjustly detaineth; for this, that the said John at forty several times between the tenth day of February, in the twenty-ninth year of the reign of the said lord the king, and the tenth day of January, in the thirtieth year of his reign, at Westminster, in the county of Middlesex, hath sold and uttered by retail, that is to say, by the bottle, commonly called the quart bottle, the quart, the pint, and the half pint, to several persons whose names to the said W. are wholly unknown, two several bottles, commonly called quart bottles, of red port wine, two several quarts of other red wine, two several quarts of other red port wine, two several quarts of white wine, two several quarts of white port wine, four several pints of other red wine, four several pints of other red port wine, two several pints of Sherry wine, two several pints of Madeira, two several pints of other white wine, four several half pints of other red wine, four several half pints of other red port wine, four several half pints of Mountain wine, and two several half pints of other white wine; all which wines were sold by the aforesaid John, to be drank and spent at Westminster aforesaid, in the county aforesaid, he the said John not being at any of the times of his selling and uttering the said wines, or any of them by retail as aforesaid, authorized and enabled in manner and form aforesaid, as by the statute in such case made and provided is prescribed and appointed, contrary to the form and effect of the said statute, whereby the aforesaid John by
force

of the said statute, hath forfeited to the said lord the king and
aforesaid William, two hundred pounds of, &c. to wit, the
five pounds for every several offence of the offences afore-
ovementioned, whereby and by virtue of the said statutean
bath accrued to the aforesaid William, who prosecutes as
or his said majesty as for himself, to receive and have from
refaid John, as well for the same lord the king as for him-
said W. the aforesaid two hundred pounds so as aforesaid
d; notwithstanding the aforesaid John, though often re-
l to pay the aforesaid two hundred pounds to the said lord the
nd to the aforesaid William, hath not paid, but hitherto de-
nd now doth deny so to do, to the damage of him the said
m of fifty pounds, and thereupon as well for our said lord
g as for himself he bringeth suit, &c.

MIDDLESEX, to wit. J. F. who sues in this particular as For losing 20l.
r the poor of the parish of St. Martin's in the Fields as for at one time at
complains of Adam Dale being, &c. of a plea that he hazard, 9. Ann.
to, &c. eighty pounds, which, &c.; for that the said C. 14, 18. by
after the first day of May 1711, to wit, on the first day of 18. Geo. 2. c.
1738, at the parliament aforesaid, in the said county of 34. l. 8. (u)
sex, was indebted to one Thomas Smith in twenty pounds
al, &c. for money which he the said Thomas on the same
l year there had lost to the said Adam at one and the same
t a certain play with box and dice called hazard, and which
Thomas had then and there paid to the said Adam, where-
by force of the statute made in the ninth year of our sove-
rign Anne, late queen of Great Britain, &c. at Westminster,
county of Middlesex aforesaid, intituled, "An Act for the
r preventing of excessive and deceitful Gaming," an action
crued to the said Thomas to demand and have of the said
he said sum of twenty pounds so lost and paid, and he the
omas has not within the space of three months next after
ng and payment of the said twenty pounds, in anywise
ted the said Adam for the recovery of the said twenty
by him the said Thomas so lost and paid to the said Adam
said; whereby and by force of the statute, &c. an action
crued to the said poor, &c. eighty pounds, to wit, the
enty pounds so lost and paid as aforesaid, and sixty pounds,
reble the value of the said twenty pounds; yet, &c.

every person losing 10l. at one sitting, or 20l. in 24 hours, may be indicted
five times the value.

WILTSHIRE, to wit. Andrew Oram complains against For refusing a
eynolds, being, &c. of a plea that he render to the said parishioner to
twenty pounds of lawful money of Great Britain, which inspect a poor's
to and unjustly detains from him, for this:—that where rate. 17. Geo. 2.
own and borough of Shafton, otherwise Shaftesbury, in the c. 38. l. 13. & 14.
more than 5l. to be convicted within two calendar months after the offence committed. penalty not less
than 20s. nor

said

saïd county of Dorset, now is, and from time whereof the memory of man is not to the contrary, hath been an ancient town and borough; and whereas the parish of St. Peter's, in the saïd county of Dorset, now is, and for all the saïd time whereof the memory of man is not to the contrary, hath been an ancient parish, and which time out of mind hath been partly within the saïd borough of Shafton, otherwise Shaftesbury, and partly out of the saïd borough, but in the county of Dorset aforesaid; and whereas the saïd Andrew on the eighteenth day of April, in the year of Our Lord 1751, and long before was, and ever since, hath been and still is an inhabitant and parishioner within the saïd parish of St. Peter, and without that part thereof which lies, and from time out of mind hath lain within the saïd borough of Shafton, otherwise Shaftesbury, that is to say, the borough aforesaid; and whereas the saïd John Reynolds on the same day and year aforesaid, and before and long afterwards was one of the overseers of the poor of that part of the saïd parish of St. Peter which lies, and time out of mind hath lain within the saïd borough, and during all that time was authorised to take care of the poor of that part of the saïd parish lying within the saïd borough, that is to say, at the borough aforesaid; and whereas also on the saïd day and year aforesaid, at the borough aforesaid, a certain rate was made for the necessary relief of the poor of that part of the saïd parish lying within the saïd borough; and the saïd rate afterwards, that is to say, on the twelfth day of May, in the year of Our Lord 1751, at the borough aforesaid, was allowed by John Lampard, esquire, then mayor of the saïd borough, and Charles Pinction, gentleman, then being two justices of the peace of our present sovereign lord the king, assigned to keep the peace of our saïd lord the king within the borough aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors done and committed within the saïd borough, one of them, to wit, the saïd John Lambert then being of the quorum: And the saïd Andrew further saith, that afterwards, to wit, on the next Sunday after the same rate was so allowed as aforesaid, that is to say, on the nineteenth day of May, in the year of Our Lord 1751, public notice was given in the saïd parish church of the saïd parish of that rate having been so allowed by the saïd justices, that is to say, at the borough aforesaid: And the saïd Andrew further saith, that the saïd Andrew at a seasonable time afterwards, that is to say, on the seventeenth day of November, in the year of Our Lord 1751, at the borough aforesaid, requested the saïd John Reynolds, then being one of the overseers as aforesaid, to permit him the saïd Andrew to inspect the saïd rate, and then and there tendered unto and offered to the saïd John Reynolds to pay him one shilling for the same, according to the form of the statute in such case made and provided; nevertheless the saïd John Reynolds not regarding the statute in such case lately made and provided, nor fearing the penalties therein contained, did not admit the saïd Andrew to inspect the saïd rate, but then and there neglected and refused so to do, contrary to the

form of the said statute, whereby and by force of the said statute an action hath accrued to the said Andrew, to demand and have of the said John Reynolds the said twenty pounds: yet the said John Reynolds, although often requested, the said twenty pounds to the said Andrew hath not yet rendered, but hath hitherto altogether denied, and still doth deny to render the same to him, and unjustly detains the same from him, to the damage of the said Andrew of twenty pounds, and thereof he brings suit, &c. pledges, &c.

CUMBERLAND, to wit. Francis Hetherington, late of Nunnery, in the said county, yeoman, was summoned to answer George Louthian and Bridget his wife, of a plea that he render to them thirty-four pounds, which he oweth to and unjustly detaineth from them; and whereupon the said George and Bridget, by John Holme their attorney, say, that whereas the said George and Bridget, in right of the said Bridget, now are and for four years last past were owners and proprietors of all and singular the tithes of corn and grain yearly during that time growing, renewing, happening and arising within the parish of Ainstable, otherwise Ainstaple, in the said county, and the bounds and limits and tithable places thereof: And whereas also the said Francis now is, and for all the time aforesaid was occupier and possessor of divers, to wit, forty acres of land, with the appurtenances, lying and being within the parish aforesaid, and the bounds, limits, and tithable places of the same parish; and whereas all and singular the tithes of corn and grain yearly growing, renewing, arising, and happening in, upon, and from the said lands, with the appurtenances, for forty years next before the fourth day of November, in the second year of the reign of Edward the sixth, late king of England, and on the same fourth day of November, of right were yielded and payable to the owner and proprietor of the said tithes, for the time being, in their proper kinds; and the said Francis being occupier and possessor of the said lands, with the appurtenances, for the said time in manner aforesaid, and the said George and Bridget being owners of the said tithes as aforesaid, the said Francis within the said four years now last past, to wit, on the twenty-fifth day of March, in the year of Our Lord 1732, and also on the twenty-fifth day of March, in the year of Our Lord 1733, sowed the said forty acres of land with several kinds of corn and grain, to wit, with wheat, rye, barley, oats, and pulse; and the said Francis afterwards, to wit, on each tenth day of September, in the respective years of Our Lord 1732, and 1733, cut down, reaped, and gathered the corn and grain arising, growing, and renewing from the said corn and grain sown in the several years last-mentioned, the tithes of which said corn and grain so reaped and gathered belonged to the said George and Bridget as aforesaid, and to them ought to have been paid and yielded; nevertheless the said Francis being a subject of this kingdom, well knowing all and singular the premises aforesaid, after the cutting, reaping,

Upon 2 & 3. Ed.
6. for not setting out tithes.
This action lies for an executor, but not against him, Sid. 88.
181. nor can it be brought *qui tam*. Cro. Eliz.
621. Moor 911.
Hetly 404.
contra.

The omission of these words had on demurrer, but good after verdict, Carth. 384.

Cro. El. 621.
2. Inst. 651.

reaping, and gathering together the corn and grain aforesaid in the said several years, to wit, on the twentieth day of September in the year of Our Lord 1732, and also on the twentieth day of September, in the year of Our Lord 1733, took and carried away the said corn and grain arising in the said respective years as aforesaid, from the several places where the same grew, and where the same ought to have been tithed, the tenth part of the said corn or grain, or any parts thereof, from the nine parts residue thereof by the said Francis for the tithes thereof not being divided, separated, or set out, *nor any agreement or composition for the tithes of the said corn and grain, or any part thereof, by the said Francis with the said George or Bridget, or either of them, being had or made, contrary to the form of the statute in that case made and provided*: And the said George and Bridget do aver, that the tenth part of the said corn and grain not divided or set out from the nine parts thereof, residue as aforesaid, at the time of taking and carrying away the same of the value of eight pounds of, &c. to wit, at the parish aforesaid; whereby and by force of the statute aforesaid, an action hath accrued to the said George and Bridget, to demand and have of the said Francis the said twenty-four pounds, to wit, the treble value of the said tenth part of the said corn and grain not divided or set forth by the said Francis from the nine parts thereof, residue as aforesaid, and taken and carried away against the form of the statute aforesaid; nevertheless the said Francis, although often requested, hath not yet rendered to the said George and Bridget the said twenty-four pounds, or any part thereof, but hath hitherto altogether denied, and still doth deny to render the same, wherefore they say they are damnified to the value of ten pounds, and thereof they bring suit, &c. *Nil debet*, not guilty may be pleaded.

No costs in this action, unless the sum than twenty nobles. 8. & 9. Will 3. 6.
plus damages found by the jury be less 11.

For turning water upon a coal-mine, 13. Geo. 2. c. 21. persons drowning coal pits to pay treble damages, and full costs.

———, to wit. J. B. the elder, late of M. in the said county, collier, was summoned to answer J. P. gentleman, of a plea that he render to the said J. P. three thousand pounds of lawful money of Great Britain, which he owes to and unjustly detains, &c. and whereupon the said J. P. by his attorney, says, that he the said J. P. on the seventeenth day of November, in the year of Our Lord 1742, and before was, and continually from thence hitherto hath been, and still is lawfully possessed of and in a certain coal work, or mine of coal, with the appurtenances, lying and being in the parish of H. in the said county of S. ; yet the said J. B. well knowing the premises, but disregarding the statute in such case lately made and provided, after the twelfth day of June 1740, and whilst the said J. P. was so possessed of his said coal-work and mine, and mine of coal, that is to say, on the seventeenth day of November, in the said year of Our Lord 1742, unlawfully, wrongfully, and maliciously did divert, and caused to be diverted,

diverted, water from divers, to wit, two brooks or water-courses in the parish of M. in the county aforesaid, in the said coal-work of the said J. P. against the form of the statute in such case lately made and provided: And the said J. P. saith, that his said coal-work, by reason thereof, was so greatly overflowed with water, that he the said J. P. for a long space of time, that is to say, from the time of the same being so overflowed as aforesaid, until the day of issuing the original writ of the said J. P. could not work his said coal mine, but during that time lost and was deprived of the profit, benefit, and advantage of his said coal-work, and mine of coal, and was compelled and under a necessity to expend and lay out divers large sums of money in endeavouring to clear out the said water, and to recover and obtain the use and benefit of his said coal-work, and mine of coal: And the said J. P. saith, that by reason of the premises he was injured, and sustained damage to the value of one thousand pounds of lawful money of this realm, that is to say, at the parish of H. aforesaid, whereby and by force of the said statute, an action hath accrued to the said J. P. to demand and have from the said J. B. the said sum of three thousand pounds, being treble the said damages; nevertheless the said J. B. although often requested, hath not paid to the said J. P. the aforesaid three thousand pounds, or any part thereof, but hath hitherto refused to pay the same to him, to the damage of the said J. P. of forty pounds, and therefore he brings suit, &c.

MIDDLESEX, to wit. Richard Dacres, who sues as well for our sovereign lord the king as for himself in this behalf, complains of Henry Burr, being in the custody of the marshal of the marshalsea, &c. in a plea that he render to our said lord the king and to the said Richard, who as well, &c. eighty pounds, which he owes to and unjustly detains from them, for this, the said Henry not regarding the statute in such cases lately made and provided, nor fearing the penalty therein contained, after the twenty-fifth day of March, in the year of Our Lord 1703, to wit, on the nineteenth day of October, in the year of Our Lord 1732, at Westminster, in the county of Middlesex, wrote and ingrossed, or caused to be written or engrossed upon a piece of parchment, part of a writing, to wit, William Stone, son of John Stone, of Mark, is, and also upon the same piece of parchment, other part of a writing, to wit, to William Weeks, of the parish of St. Mary's, in Marlborough, the same writing purporting to be, that the said William Stone put himself apprentice to the said William Weeks, for six years, in respect of which said parts of the said writing so written and ingrossed by the said Henry as aforesaid, several duties were then payable to the said now lord the king, by force of the statutes in such cases lately made and provided, and in which said piece of parchment there had been then before written other matters, to wit, another agreement of apprenticeship between other persons, in respect of which said other agreement of

For ingrossing indentures before stamped. 8. Ann. c. 9. §. 36, 37, 38, 39.

“ excessive increase of Horse Races, and for amending an Act
 “ made in the last Session of Parliament, entitled, “ An Act for
 “ the more effectual preventing of excessive and deceitful gam-
 “ ing;” it was enacted that from and after the twenty-fourth
 day of June 1740, no plate, prize, sum of money, or other thing
 should be run for by any horse, mare, or gelding, or advertised,
 published, or proclaimed to be run for by any horse, mare, or gelding,
 or advertised, published, or proclaimed to be run for by any horse,
 mare, or gelding, unless such plate, prize, or sum of money should be
 of the full, real, and intrinsic value of fifty pounds or upwards, and in
 case any person or persons should from and after the twenty-fourth of
 June 1740, enter, start, or run any horse, mare, or gelding for any
 plate, prize, sum of money, or other thing of less value than fifty
 pounds, or should print, advertise, publish, or proclaim any adver-
 tisement or notice of any plate, prize, sum of money, or other
 thing of less value than fifty pounds as aforesaid, to be run for by
 any horse, mare, or gelding, every such person or persons so en-
 tering or running such horse, mare, or gelding, for such plate,
 prize, sum of money, or other thing of less value than fifty pounds
 as aforesaid, should forfeit and lose the sum of two hundred pounds,
 to be sued for, recovered, and disposed of in such manner as was there-
 inafter prescribed and directed: And it was further enacted by the
 authority aforesaid, that all penalties and forfeitures incurred by any
 person or persons for any offence against that act, should be sued
 for and recovered by any action, bill, plaint, or information in any
 other of his majesty’s courts of record at Westminster, or at the
 assizes, and should be disposed of, one moiety thereof to the use
 of such persons as should so sue for the same, and the other moiety
 to the use of the poor of such parish or place where the offence should
 be committed, except one such moiety of such penalties or for-
 feitures as should be incurred by and recorded of any person or
 persons within the county of Somerset, as by the said act more
 fully appears: And the said Ralph, who sues as aforesaid, further
 says, that the said Emanuel, not regarding the said act of parlia-
 ment, nor fearing the penalty therein contained, after the making
 of the said act, and after the twenty-fourth day of June, in the
 year of Our Lord 1740, mentioned in the said act, and within the
 space of one year before the exhibiting the bill of the said Ralph,
 who as well, &c. to wit, on the twenty-fifth day of March, in the
 year of Our Lord 1752, *within the said kingdom of England, and
 elsewhere than in the county of Somerset*, that is to say, in the pa-
 rish of Caterick, *did enter, start, and run* a certain gelding of the
 said Emanuel for a certain prize of less than fifty pounds, to
 wit, for a saddle of the value of one guinea, against the form
 of the statute in such case lately made and provided; whereby and
 by force of the statute in such case made and provided, the said
 Emanuel forfeited to the poor of the said parish of Caterick, in
 which said parish the said offence was committed, to such person
 or persons who should sue for the same, the sum of two hundred
 pounds, and whereby and by force of the said statute an action
 hath accrued to the said poor of the said parish and to the said
 Ralph,

This may be o-
 mitted.

For a sum of
 money under
 50l. to wit, for
 the sum of 5l. 5s.
 and no more.

Ralph, who sues as aforesaid, to demand and have of the said Emanuel for his said offence the said two hundred pounds so forfeited as aforesaid; yet the said Emanuel, though often requested, hath not yet paid the said two hundred pounds to the said poor of the said parish and to the said Ralph, who sues as aforesaid, or either of them, but he to pay the same hath hitherto wholly refused, and will doth refuse, to the damage of the said Ralph of ten pounds; and therefore the said Ralph, as well for the said poor as for himself, bringeth suit, &c. [If there be more Counts]: And the said J. H. who sues as aforesaid, further saith, that the said Emanuel, not regarding the said act of parliament, nor fearing the penalty therein contained, after the making, &c. [as above.]

LINCOLNSHIRE, to wit. Thomas Burrial, late of, &c. Against a tenant as summoned to answer to William Bradshaw, gentleman, of a plea that he render to him forty pounds ten shillings, which he owes to and unjustly detains, &c.; and whereupon, &c.; that whereas the said Thomas, after the twenty-fourth of June 1738, to wit, on 1742, and afterwards was tenant of the said William of certain lands and tenements, to wit, one messuage, acres, with the appurtenances, at Holton-le-Clay aforesaid, by virtue of a demise thereof to him then before made, at and under the yearly rack-rent of ten guineas of lawful money of Great Britain, and by the said Thomas then holden in his possession of the said William his landlord, and at and under the yearly rack-rent aforesaid, and which said Thomas was so tenant to the said William of the lands and tenements aforesaid, to wit, on the day and year aforesaid, at Holton-le-Clay aforesaid, a declaration in ejectment for his said lands and tenements, with the appurtenances, was delivered to the said Thomas, then tenant hereof; nevertheless the said Thomas, not regarding the statute in this case lately made and provided, nor the penalty therein contained, did not forthwith give notice of the said declaration in ejectment so delivered to him as aforesaid to the said William his landlord thereof, nor his bailiff or receiver, but neglected so to do, contrary to the form of the statute in this case made and provided, by reason whereof, and by force of the said statute an action hath accrued to the said William to demand and have of the said Thomas forty pounds ten shillings, to wit, the whole of the three years rent of the said premises so holden by the said Thomas in his possession as aforesaid, at the yearly rack-rent of thirteen pounds ten shillings; nevertheless, &c.

Against a tenant for not giving notice of ejectment to his landlord.
11. Geo. 2. c. 19. s. 12. Forfeiture three years improved or rack rent.

LINCOLNSHIRE, to wit. Thomas Burr, late of, &c. and John Burr, late of, &c. were summoned to answer George Storr, esquire, of a plea that they render to the said George twenty-four pounds eleven shillings of lawful, &c. which they owe to him and unjustly detain, &c.; and whereupon, &c. says, that one Henry

For assisting a tenant to remove cattle to prevent a distress.
11. Geo. 2. c. 19, s. 3. Forfeiture double the value of the goods, &c. so carried off.

Henry Wildbore, on the feast of the Annunciation of the Blessed Virgin Mary 1746, and for half a year and more next before that feast, and afterwards held and enjoyed all that messuage, house, &c. of the said G. S. as tenant thereof under a certain demise to him thereof made, at the yearly rent of thirty-five pounds, payable half-yearly, to wit, at the feast of St. Michael the Archangel and the Annunciation of the Blessed Virgin Mary by equal portions, and during all that time held the same of the said G. S. as tenant thereof at the rent aforesaid : And the said G. S. further saith, that seventeen pounds ten shillings of the rent aforesaid for half a year ended at the feast of the Annunciation of the Blessed Virgin Mary 1746, were in arrear and unpaid to the said G. at that feast in that year, and that the said rent being so in arrear and unpaid to the said G. and during the continuance of the said demise, that is to say, on the first of April 1746, certain cattle, goods, and chattels, that is to say, three milch cows [here particularize the goods] were lying and being in the said demised premises, and were then subject and liable to be taken and seised by the said G. S. as a distress for the rent so in arrear and unpaid, and the said sum of seventeen pounds ten shillings of the rent aforesaid so being in arrear and unpaid to the said G. and the said cattle, goods, and chattels so being on the said demised premises, and liable to be taken by the said G. as a distress for the rent so in arrear and unpaid as aforesaid, he the said Henry, during the continuance of the said demise, to wit, the same day and year last-mentioned, did fraudulently remove and carry away, and caused to be moved and carried away the said cattle, goods, and chattels, of and from the said demised premises, with intent to prevent and hinder the said G. S. from distraining the same for the said seventeen pounds ten shillings for the rent aforesaid, so being due and in arrear as aforesaid ; and the said Thomas and John not regarding the statute in such case lately made and provided, nor fearing the penalty therein contained, but disregarding the same, afterwards, to wit, on the same day and year, did wilfully and knowingly assist the said Henry in concealing the said goods and chattels fraudulently removed and conveyed of and from the said demised premises as aforesaid, to wit, at Keatly aforesaid, contrary to the form of the said statute ; and the said G. S. doth aver, that the said cattle, goods, and chattels so fraudulently conveyed and removed away of and from the said demised premises, and concealed as aforesaid at the time of removing and conveying away and concealing the same as aforesaid, were of the value of twelve pounds five shillings and sixpence, to wit, at Keatly aforesaid ; by reason whereof, and by force of the statute, an action hath accrued to the said G. S. to demand and have of the said Thomas and John twenty-four pounds eleven shillings, that is to say, double the value of the said cattle, goods, and chattels so fraudulently removed and conveyed away of and from the said premises concealed as aforesaid ; nevertheless, &c.

LANCA-

LANCASHIRE, to wit. Robert Hall, who prosecutes in this behalf as well for our lord the now king as for himself, complains of Robert Oliver being, &c. of a plea that he render to the said lord the king and the said Robert, who as well, &c. one hundred pounds, which to the said lord the king and the said Robert, who as well, &c. he owes and unjustly detains, &c.; for this, that the said Robert Oliver, upon the first day of December, in the year of Our Lord 1740, and long before was, and from thence continually hitherto hath been, and still is vicar of the vicarage of the parish church of Warton, in the county of Lancaster, and that the said Robert Oliver being vicar as aforesaid of the vicarage of the said parish church, or spiritual person upon the same day and year aforesaid, and for the space of ten whole months then next following, wilfully *absented* himself from his said vicarage, and during all that time made his residence at a great distance from his said vicarage, to wit, at Preston, in the county aforesaid, against the form of the statute in such case lately made and provided, whereby the said R. O. hath forfeited the said sum of one hundred pounds, to wit, ten pounds for every month wherein the said R. O. hath so *absented* himself from his said vicarage as aforesaid, one moiety thereof to our said lord the king, and the other moiety to the said R. H. who as well, &c. whereby an action hath accrued to our said lord the king and the said R. H. who sues as aforesaid, to demand and have of the said R. O. the said one hundred pounds; yet, &c.

Against a vicar, for being absent ten months.

21 Hen.8. c.13. f. 26.

28. Hen.8. c.13. Penalty 10l. per month to the king and informer.

And the said R. O. by G. G. his attorney, comes and defends the wrong and injury, when, &c. and saith, that the said R. H. who as well, &c. ought not to have or maintain his aforesaid action thereof against him, because he says, that one S. P. who sued as well for our sovereign lord the king as for himself heretofore, before the exhibiting of the said bill of the said R. H. who as well on the day of in the said term of St. Michael, in the fifteenth year of the reign of his present majesty, came before the barons of his majesty's exchequer at Westminster by D.D. their attorney, and brought in the same court of exchequer there his certain bill against the said R. O. by the name of R. O. clerk, present there in the said court of exchequer, the same day that he should render to our said lord the king and the said S. who as well, &c. one hundred and ten pounds, which to the said lord the king and the said S. who as well, &c. he owed and unjustly detained; for that the said R. O. on the said day of exhibiting of the said bill of the said S. P. who as well, &c. and for and during the space of eleven months then last past had been, and then was a spiritual person and beneficed, that is to say, R. O. for the whole time aforesaid had been and then was vicar of the vicarage of the parish church of Wharton, in the county aforesaid, and beneficed in the same; and the said R. O. for the space of eleven months, was not personally resident at and abiding upon his said vicarage, nor at, or upon any prebend or other dignity or benefice of the said R. O.

Plea, another action depending for the same offence.

Imparlance.

Further impar-
lance.

R. O. but the said R. O. absented himself wilfully for the space of eleven months from his said vicarage, and during all the time aforesaid made his residence and abiding in another place, to wit, at Preston, in the county of Lancaster, against the form of the statute in such case lately made and provided, whereby the said R. O. had forfeited the sum of one hundred and ten pounds, that is to say, ten pounds for every month of the said eleven months wherein the said R. O. had so absented himself from his said vicarage as aforesaid, by reason whereof an action had accrued to our said lord the king and the said S. who as well, &c. to demand and have of the said R. O. one hundred and ten pounds; nevertheless the said R. O. although often requested, the one hundred and ten pounds, or any part thereof to our said lord the king and the said S. who as well, &c. had not rendered, but had altogether until then wholly refused, and did then refuse to render the same, to the damage of the said S. who, &c. twenty pounds; and thereupon as well for our said lord the king as for himself he brought suit, &c. and then and there found pledges to prosecute, to wit, John Doe and Richard Roe; and the said R. O. present there in the said court of exchequer, by Thomas Frank his attorney, came and defended the wrong and injury, when, &c. and prayed oyer of the said bill of the said S. P. who as well, &c. and it was read to him, which being read and heard, the said R. O. saving to himself all and all manner of exceptions to the said bill of the said S. P. who as well, &c. said, that he was not then advised to answer the said S. who as well, &c. in the premises, and prayed leave to imparl thereto until the octave of St. Hilary then next to come, which was by the court then and there granted to him, and the same day was given to the said Samuel, who as well, &c. there, &c. at which day came in the said court of exchequer as well the said Samuel, who as well, &c. the said R. O. by their attornies as aforesaid: And the said R. O. said, that he was not then advised to answer the same, who as well, &c. in the premises, and further prayed leave to imparl to the said bill of the said Samuel, who as well, &c. until fifteen days from the day of Easter then next to come, which was by the court then granted, and the same day was given to the said Samuel, who as well, &c. there, &c. which said plea is still depending in his majesty's court of exchequer undetermined, as by the said record and pleadings thereof now remaining in the said court of Exchequer at Westminster, it doth more fully appear, and this he is ready to verify; wherefore he prays judgment if the said R. H. who as well, &c. ought to have or maintain his said action against him; with this, that the said R. O. doth aver, that the said offence and cause of action in the said bill of the said S. P. who as well, &c. above contained and specified, and the said offence and cause of action in the said bill of the said R. H. who as well, &c. above complained and specified, are one and the same offence and cause of action, and not other or different, &c.

SUSSEX, to wit. W. C. late of, &c. flax-dresser, was summoned to answer J. J. the elder, of a plea that he render to him thirty-five pounds of lawful, &c. which he owes to him and unjustly detains from him, &c.; whereupon the said J. by his attorney, says, that the said W. after the first of June 1765, to wit, on the eighth of June A. D. 1765, did take divers fish, to wit, ten salmon, ten trout, one hundred pike, one hundred carp, one hundred gudgeons, one hundred roach, one hundred tench, and one hundred eels, in a certain pond of the said J. situate and being in the parish of T. in the county of S. (the said pond not being in any park or paddock, or in any garden, orchard, or yard adjoining or belonging to any dwelling-house, but in certain inclosed grounds which then was the property of the said J.) he the said W. not having any just right or claim to take the said fish, whereby and by force of the statute in such case lately made and provided, an action hath accrued to the said J. to demand and have of the said W. five pounds, parcel of the said thirty-five pounds above demanded. [2d Count, altering the word *take* for *kill*]: And the said J. further saith, that the said W. after the said first of June 1765, on the eighth of June A. D. 1765, did destroy divers other fish, to wit, ten other salmon, &c. in a certain other pond of the said J. situate and being in the parish of T. aforesaid, in the county of S. (the said last-mentioned pond not being in any park or paddock, or in any garden, orchard, or yard adjoining to any dwelling-house, but in certain inclosed grounds which was then the property of the said J.) whereby and by force of the said statute in such case made and provided, an action hath accrued to the said J. to demand and have of the said W. other five pounds, further parcel of the said thirty-five pounds above demanded. [4th Count, for *taking* fish in a pool.] [5th Count, *destroying* in a pool.] And the said J. further saith, that the said W. after the said first of June 1765, to wit, on the said eighth of June A. D. 1765, did take divers other fish, to wit, ten other salmon, &c. in a certain stream of the said J. situate and being at the parish of T. aforesaid, in the said county of S. (the said stream not being in any park or paddock, or in any garden, orchard, or yard adjoining or belonging to any dwelling-house, but in certain inclosed grounds which then was the property of the said J.) he the said W. not having any just right to take the said last-mentioned fish; whereby and by force of the said statute in such case lately made and provided, an action hath accrued to the said J. to demand and have of the said W. other five pounds, residue of the said thirty-five pounds above demanded; yet the said W. although often requested, hath not paid the said thirty-five pounds, or any part thereof, to the said J. but to pay the same to the said W. he the said W. hath hitherto altogether refused, and still doth refuse, to the damage of the said J. of ten pounds, and therefore brings suit, &c.

On stat. 5. Geo. 3. c. 15. for fishing in a pool of plaintiff's.

3d Count,

6th Count, for taking fish in a stream.

WARWICK-

Declaration for
fraternity at an
election for a
borough lying
within two
counties.

WARWICKSHIRE, to wit. P. complains of D. being, &c. of a plea that he render to the said P. two thousand five hundred pounds of, &c. which he owes to and unjustly detains from him: For that whereas the borough of Tamworth, lying partly within the county of Warwickshire aforesaid, and partly within the county of Stafford, is an ancient borough, and for a long space of time two burgesses of the said borough have been elected and sent, and have used and been accustomed, and of right ought to be elected and sent to serve as burgesses for the same borough in the parliament of this kingdom: And whereas on the twenty-first of March, in the first year of the reign of our sovereign lord George the third, king of Great Britain, &c. a certain writ of our said lord the king under the great seal of Great Britain, issued out of his said majesty's court of chancery, the said court then and still being at Westminster, in the county of Middlesex, directed to the sheriff of the said county of Warwick, by which said writ our said lord the king, reciting, that whereas by advice and assent of his said majesty's council for certain arduous and certain affairs concerning his said majesty, the state, and affairs of his said kingdom of Great Britain, and the church, our said lord the king had ordered a certain parliament to be holden at his said majesty's city of Westminster on the nineteenth of May then next ensuing, and there to treat and have conference with the prelates, great men, and peers of his majesty's realm, our said lord the king by the said writ commanded and strictly enjoined the said sheriff, that proclamation being made of the day and place aforesaid in the next county court of the said sheriff, to be holden after the receipt of that his majesty's writ, two knights of the most fit and discreet of the said county, girt with swords, and every city of the same county two citizens, and of every borough in the same county two burgesses of the most sufficient and discreet, freely and indifferently by those who at such proclamation should be present, according to the form of the statutes in that case made and provided, the said sheriff should cause to be elected, and the names of those knights, citizens, and burgesses, so to be elected, whether they should be present or absent, the said sheriff should cause to be inserted in indentures to be thereupon made between the said sheriff and those who should be present at such election; and thereupon, at the day and place aforesaid, the said sheriff should cause to come in such manner that the said knights for themselves, and the commonalty of the same county, and the said citizens and burgesses, masters, for themselves and the commonalty of the cities and boroughs respectively, might have from them full and sufficient power to do and consent to those things which then and there by the common counsel of his said majesty's kingdom (by the blessing of God) should happen to be ordained upon the aforesaid affairs, so that for want of such power, or through the improvident election of the said knights, citizens, and burgesses the aforesaid affairs in no wise remained unfinished, willing nevertheless that neither the said sheriff, nor any other sheriff of his majesty's kingdom, should be in anywise elected,

BRIBERY AT AN ELECTION.

and the election in the said sheriff's full county, so
ly, and so openly under the said sheriff's seal and the
to should be present at such election, the said sheriff
to our said lord the king in his chancery at the da
oresaid, without delay remitting to our said lord the
t of the aforesaid indentures annexed to the said writ,
r with the said writ: And whereas on the twenty-first of
in the first year of his said majesty's reign, a certain other
our said lord the king, under the great seal of Great Britain,
ut of his said majesty's court of chancery, the said court
t Westminster in the said county of Middlesex, directed to
sheriff of his majesty's county of Stafford, by which said
r said lord the king, reciting, that whereas by the advice
ent of his said majesty's council, for certain arduous and
affairs concerning his said majesty, and the state and de-
f his kingdom of Great Britain, and the church, our said
king had ordered a certain parliament to be holden at his
's city of Westminster, on the nineteenth of May then next
, and there to treat and have conference with the prelates,
en, and peers of his majesty's realm, our said lord the
y the said writ commanded and strictly enjoined the said
that proclamation being made of the days and place afore-
the next county court of the said sheriff, to be holden after
ript of that his majesty's writ, two knights of the most fit
reet of the said county, girt with swords, and of every
the same county two citizens, and of every borough in the
unty two burgesles of the most sufficient and discreet freely
differently by those who at such proclamation should be
according to the form of the statute in that case lately
ad provided, the said sheriff should cause to be elected, and
es of those knights, citizens, and burgesles, so to be
whether they should be present or absent, the said sheriffs
ause to be inserted in certain indentures so thereupon made
a the said sheriff and those who should be present at such
, and then, at the day and place aforesaid, the said sheriff's
cause to come in such manner that the said knights for
res and the commonalty of the same county, and the said
and burgesles, masters, and the commonalty of the said
id boroughs respectively might have from them full and suf-
power to do and consent to those things which then and
y the common counsel of his said majesty's kingdom; (by
ing of God) should happen to be ordained upon the afore-
irs, so that for want of such power, or through an improvi-
tion of the said knights, citizens, or burgesles, the aforesaid
night in nowise remain unfinished, willing nevertheless that
the said sheriff, nor any other sheriff of his majesty's kingdom
be in anywise elected, and the election in the said sheriff's
unty so made distinctly and openly under the said sheriff's seal
seals of those who should be present at such election, the said
ould certify to our said lord the king in his chancery at the day
and

DEBT ON PENAL STATUTES.

and place aforesaid, without delay remitting to our said lord king one part of the aforesaid indentures annexed to the said writ together with the said writ: And whereas afterwards, and before the return of the said writs, on the twenty-third day of March the said first year of the reign of our lord the present king, the writ so directed to the sheriff of the said county of W. was livered to Andrew Hackett the younger, esquire, who then and still is sheriff of the said county of W. and the said other writ so directed to the sheriff of the said county of Stafford, was then delivered to Jeremiah Smith, esquire, who then was and is sheriff of the said county of Stafford, to be respectively executed in due form of law, to wit, at Tamworth aforesaid, in that part of the said borough which lies within the said county of Warwick by virtue of which said respective writs the said respective sheriffs afterwards, and before the return thereof, to wit, on the twenty-third of March, in the first year aforesaid, at the borough of Tamworth aforesaid, that is to say, in that part of the borough which lies within the county of W. aforesaid, made several precepts in writing, sealed with the seals of their respective offices of sheriffs, directed to the bailiffs and burgessees of the borough of Tamworth aforesaid, of and for the election within the said borough of two burgessees of the same borough, according to the forms and effects of the said writs, by virtue of which said precepts afterwards, and before the return thereof, to wit, on the thirty-first of March, in the said first year of the reign of his present majesty, at the borough of Tamworth aforesaid, the election of two burgessees of the said borough to serve as burgessees for the borough in the then next parliament to be holden as aforesaid, was made, before which election, and at the time when the offence next hereinafter mentioned was committed by the said defendant from the thirtieth of March, in the first year aforesaid, the honourable G. B. Villiers, commonly called Lord Villiers Robert Burdett, baronet, and Simon Lutterell, esquire, candidates, that of them two might be elected to serve as burgessees for the said borough in the aforesaid year, next parliament, and the G. B. V. sir R. B. and S. L. remained and continued candidates for the said borough until and at the time of the said election: the said plaintiff further says, that the said defendant, not regarding the statute in such case made and provided, nor fearing the penalties therein contained, after the twenty-fourth of June 1729, after the issuing of the writs and precepts aforesaid, and before the said election of burgessees for the said borough, and whilst the G. B. V. and sir R. B. and S. L. were candidates as aforesaid, to wit, on the thirtieth of March, in the first year of the reign of our said lord the now king, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which lies within the county of Warwick aforesaid, he the said defendant did corrupt one William Moore, who then and there and at the time of the said election had a right to vote in that election, to give his vote in that election for the said G. B. V. and sir R. B. by a co-

gift which the said defendant then and there made and delivered to the said W. M. of a large sum of money, to wit, five pounds ten shillings in money, as and for a gift or reward for him the said William Moore to give his vote in the said election for the said G. B. V. and sir R. B. contrary to the form of the statute in such case lately made and provided; whereby and by force of the said statute an action hath accrued to the said plaintiff to demand and have from the said defendant for his said offence five hundred pounds, parcel of the said two thousand five hundred pounds above demanded: And the said plaintiff further says, that afterwards, and ^{2d Count.} before the said election for burgesses for the said borough, and whilst the said G. B. V. sir R. B. and S. L. were candidates as aforesaid, to wit, on the thirtieth of March, in the first year of the reign of his present majesty, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which lies within the said county of Warwick, he the said defendant, disregarding the statute aforesaid, did corrupt one William Moore, who then and there, and at the time of the said election had a right to vote in that election, to give his vote in the said election for the said G. B. V. and sir R. B. by a corrupt agreement then and there made by the said defendants to and with said W. M. that he the said defendant would give to the said W. M. a large sum of money, to wit, the sum of five pounds ten shillings, as a gift or reward to the said W. M. for his giving his vote in that election for the said G. B. V. and the said sir R. B. contrary to the form of the statute in such case lately made and provided; whereby and by force of the statute an action hath accrued to the said W. S. to demand and have of the said W. N. for his said last-mentioned offence other five hundred pounds, parcel of the said two thousand five hundred pounds above demanded: And the said W. S. further says, that afterwards, and before the said election of burgesses to serve for the said borough of Tamworth in the said then next parliament to be holden as aforesaid, and whilst the right honourable G. B. V. commonly called Lord Villers, the said sir Robert B. and S. L. were candidates as aforesaid, to wit, the thirtieth of March, in the first year of his said present majesty, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which was within the county of Warwick aforesaid, he the said W. N. did corrupt one William Moore, who then and there and at the time of the said election had a right to vote in the said election, to give his vote in that election for the said G. B. V. and sir R. B. by a corrupt agreement then and there made by the said W. N. with the said W. M. that he the said W. N. would give to the said W. M. a large sum of money, to wit, the sum of five pounds ten shillings in money, and in lieu thereof accept from the said W. M. a promissory note for the payment of five guineas to him the said W. N. and that the said W. N. would deliver to the said William Moore on his voting in that election for the aforesaid G. B. V. and sir R. B. the said promissory note, which was accordingly then and there made and signed by the said W. M. for the payment of

Bribery, giving five guineas, and taking promissory note to be returned at the election.

4th Count, another candidate offering.

and whilst the right honourable G. B. V. commonly called Villiers, the said sir R. B. and S. L. were candidates as to wit, on the thirtieth of March, in the said first year of his present majesty, at the borough of Tamworth aforesaid, say, in that part of the said borough which lies within of W. aforesaid, he the said W. N. did corrupt one W. M. by giving then and there and at the time of the said election his vote in the said election, to give his vote in that election for the said G. B. V. and sir R. B. by a corrupt promise which he the said W. N. then and there made to the said W. M. he the said W. M. would deliver up to the said W. N. upon his voting in the said election for the said G. B. V. and sir R. B. as a reward for his vote, a certain other promissory note which was then made and signed by the said W. M. for the payment of five hundred pounds to the said W. N. contrary to the form of the statute in that behalf made and provided; whereby and by force of the said statute such a case made and provided, an action hath accrued to the said W. S. to demand and have of the said W. N. for his last offence other five hundred pounds, further parcel of the said two thousand five hundred pounds above demanded of the said W. S. further says, that the said G. B. V. sir R. B. and S. L. being candidates as aforesaid, afterwards, and before the election was made, to wit, the thirty-first of March, in the said first year aforesaid, one William Abney, esquire, became and was a candidate at that election to be elected to serve as one of the knights of the shire for the said borough in the said then next parliament to be holden as aforesaid, and that after the twenty-fourth of January aforesaid and after the issuing of the several writs and precepts aforesaid before the said election was made, to wit, on the thirtieth of March aforesaid, in the said first year of the reign of our said present king, at the borough of Tamworth aforesaid, in

the said W. N. would deliver up the promissory note to the said T. M. upon his voting in that election for the said G. B. V. and sir R. B. as a gift or reward to the said W. M. for his giving his vote in the aforesaid election for the said G. B. V. and sir R. B. contrary to the form of the statute in such case lately made and provided; whereby and by force of the statute in such case made and provided an action hath accrued to the said W. S. to demand and have of the said W. N. for his last-mentioned offence other five hundred pounds, residue of the aforesaid two thousand five hundred pounds above demanded; yet the said W. N. although often requested, &c. hath not yet rendered or paid the aforesaid two thousand five hundred pounds, or any part thereof to the said W. S. but hath hitherto altogether refused, and still refuses so to do, to the damage of the said W. S. of twenty pounds, &c. and thereupon he brings his suit, &c.

DENBIGHSHIRE, to wit. Aaron Hill, who prosecutes as well for our sovereign lord the king as for himself in this behalf, comes, &c. and complains by bill against Robert Clark, present here in the court the same day, of a plea of trespass and contempt against the form of the statute: For that whereas the said Aaron, who as well, &c. for divers, to wit, two years now last past, was an inhabitant and parishioner of the parish of Chirk, in the said county, and the said Robert, during that time aforesaid, was and yet is vicar of the parish church of the same parish, and minister of the same church: And whereas the said Robert, being vicar and minister aforesaid, before the seventh of November 1736, that is to say, on the thirty-first of October in the same year, at the parish aforesaid, in the parish church of the same parish, gave public notice to divers persons, parishioners of the said parish, whereof the said Aaron, who as well, &c. was one, then being assembled together in the said church for the celebration of divine worship there of his the said Robert's purpose of administering the blessed Sacrament on the Lord's Day then next following: And the said A. who as well, &c. further saith, that on the said Lord's Day next after giving of the said notice as aforesaid, that is to say, on the seventh day of November in the year aforesaid, being the day prefixed by the said Robert for the administration of the said sacrament, he the said Robert did administer the blessed sacrament of the Body and Blood of Christ under both the kinds of bread and wine to divers persons, parishioners of the said parish, being then assembled together and present in the said church for that purpose, and although the said Aaron was a person then and there also present in the same church, and assembled together there with the said other parishioners for the same purpose, and then and there presented himself in due manner to the said Robert for receiving of the blessed Sacrament, and devoutly and humbly desired it of him; yet the said Robert, devising and maliciously intending to aggrieve the said Aaron in this behalf, and to deprive him

For refusing to administer the sacrament to a parishioner.
1. Edw. 6. c. 1.
c. 7.

him of the benefit of receiving the said blessed sacrament, did then and there, without any lawful cause, refuse to administer the said blessed sacrament to the said Aaron, and denied the same to him, in contempt of the said lord the king, and to the no small damage and manifest grievance of the said Aaron, and against the form of the statute in such case made and provided; whereupon, &c.

For drawing
with more horses
than allowed.

HERTFORDSHIRE, to wit. T. B. complains of T. R. being in the custody of the marshal of the marshal's office of our lord the now king, before the king himself, of a plea that he render to the said T. B. five pounds of lawful due money of Great Britain, which he owes to him and unjustly detains from him: For that whereas the said T. R. on the seventh day of February, in the seventh year of the reign of our present sovereign lord the George the second, &c. at Hertford, in the said county, was indebted to the said T. B. in the sum of five pounds of lawful money of Great Britain, being forfeited by an act made at a parliament begun and holden at Westminster the thirty-first of May, in the year of Our Lord 1754, in the twenty-seventh year of the reign of his late majesty king George the second, and from thence continued by several prorogations to the first day of November following, being the second sessions of that parliament, entitled, "An Act to amend an Act made in the twenty-sixth year of the
" Reign of his present Majesty, entitled, an Act to amend an
" Act for the amendment and Preservation of the Public Highways
" and Turnpike Roads of this Kingdom, and for the more effective
" execution of the Laws relating thereto," whereby an action hath accrued to the said T. B. to demand and have of the said T. R. the said five pounds above demanded; yet the said T. R. although often requested, hath not yet paid the said sums, or any part thereof, to the said T. B. but to pay the same to the said T. B. he the said T. R. hath hitherto altogether refused, and still doth refuse. Damage ten pounds.

Against a butcher, for taking
cattle alive.

LONDON, to wit. Be it remembered that heretofore, that is to say, in the term of St. Michael last past, before our sovereign lord the king at Westminster, came S. T. who sues in this behalf as well for our lord the now king as for himself, by A. B. his attorney, and brought into the court of our said lord the king then there the bill against J. G. being, &c. in a plea of debt, and there are pledges of the prosecution, to wit, John Doe and Richard Roe, which said bill followeth in these words, to wit: S. T. who sues in this behalf as well for our said lord the now king as for himself, complains of J. G. being in the custody, &c. of a plea that the said J. G. render to our said lord the king and to the said S. who sues as aforesaid, the sum of eighty pounds of good and lawful money of Great Britain, which he owes to our said lord the king and to the said S. who sues as aforesaid, and
unjustly

unjustly detains from them, &c.: For that the said J. not regarding the statute in this case lately made and provided, or the penalties therein contained, after the feast of St. Michael the Archangel in the said statute mentioned, to wit, on the seventh day of July, in the year of Our Lord 1738, at London aforesaid, to wit, in the parish of St. Sepulchre, in the ward of Farringdon without, at London aforesaid, did by himself sell forty fat lambs alive, each of the said lambs of the value of ten shillings, amounting in the whole to the sum of twenty pounds in value, he the said J. then and long before and after the time of such sale being a butcher, and using and exercising the trade, art, and mystery of a butcher, to wit, at London aforesaid, in the parish and ward aforesaid, contrary to the form and effect of the said statute; whereby by force of the said statute in such case made and provided the said J. forfeited unto our lord the king and to the said S. who sues aforesaid, the sum of forty pounds, parcel of the said eighty pounds above demanded, being double the value of the said lambs sold by the said J. as aforesaid; and also for that the said J. afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, did by himself, his servants and agents, offer and expose to sale forty other fat lambs alive, each of the said last-mentioned lambs being of the value of ten shillings, and amounting together in value to the sum of twenty pounds, he the said J. at the time of the offering and exposing to sale the said last-mentioned lambs being a butcher, and using and exercising the said trade and mystery of a butcher, to wit, at London aforesaid, in the parish and ward aforesaid, contrary to the form of the said statute; whereby and by force of the said statute the said J. hath forfeited unto our said lord the king and the said S. who sues as aforesaid, another sum of forty pounds, being double the value of the said last-mentioned lambs, residue of the said sum of eighty pounds above demanded; yet the said J. although often requested, hath not yet paid the said eighty pounds, or any part thereof, to our said lord the king, and to the said S. who sues as aforesaid, but to pay the same to our said lord the king and the said S. who sues as aforesaid, the said J. hath hitherto altogether refused, and still doth refuse; whereupon the said S. who sues as aforesaid, says he is injured, and hath sustained damage to the value of twenty pounds, and therefore as well for our said lord the king as for himself he brings suit,

And now at this day, that is to say, on Tuesday next after the feast of St. Hilary in this same term, until which day the said J. had leave to imparl to the said bill, and then to answer the same, as well the said S. who as well, &c. by his said attorney, and the said J. by his attorney, before our sovereign lord the king at Westminster, and the said J. defends the force and injury, when, he and says, that the said S. ought not to have or maintain his action against him; because he says, that J. F. who professeth as well for our said lord the king as for himself in this respect,

Plea to a bill filed the same term by an informer, and judgment in bar.

2d Count, ex-
pose to sale.

by bill without his majesty's writ, has impleaded the said John in this same term of St. Michael, in the court of our said lord the king, before the king himself here, to wit, at Westminster, of a plea of debt of eighty pounds, declaring against the said J. in the said plea; for that the said J. on the seventh day of July, in the year of Our Lord 1738, did use the trade and mystery of a butcher, to wit, at London aforesaid, to wit, in the parish of St. Sepulchre, in the ward of Farringdon without, and the said J. so using the said trade, art, or mystery of a butcher, to wit, on the same day and year aforesaid, at London aforesaid, in the parish and ward aforesaid, did sell forty lambs alive, each of the said lambs being of the value of ten shillings, against the form of the statute in such case lately made and provided; whereby and by force of the said statute an action hath accrued to the said James, who sues as aforesaid, to demand and have of the said John for our said lord the king and for himself forty pounds, to wit, double the value of the said forty lambs, parcel of the said eighty pounds above demanded: And whereas the said John so using and exercising the trade of a butcher, afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, did expose to sale forty other fat lambs, each of them of the value of ten shillings, contrary to the form and effect of the said statute; by reason whereof, and by force of that statute an action hath accrued to the said James to demand and have of the said John as well for our said lord the king as for himself forty pounds, to wit, double the value of the said lambs so exposed to sale as last aforesaid, residue of the said eighty pounds above demanded; nevertheless the said John, although often requested, has not paid to the said James, who sues as aforesaid, as well for the said lord the king as for himself, the said eighty pounds, or any part thereof, but hath hitherto wholly refused and still doth refuse to pay the same, to the damage of the said James, who sues as aforesaid, of eighty pounds; and therefore, &c.; and such proceedings were thereupon had in the court of our said lord the king, before the king himself, to wit, at Westminster aforesaid, in that plea, that by the judgment of the court here the said James has recovered against the said John the said debt of eighty pounds so demanded by him as aforesaid, as by the record and proceedings thereof in the said court here manifestly appears: And the said John further says, that the said cause of action contained in the said declaration of the said S. and the said cause of action contained in the said declaration of the said James, are one and the same cause of action and not divers; and this he is ready to verify; wherefore he prays judgment if the said S. ought to have or maintain his aforesaid action against him, &c.

Demurrer.

And the said S. who as well, &c. says, that he by reason of any thing by the said John above in pleading alledged, ought not to be precluded from having and maintaining his said action against the said John; because he says, that the said plea of the said John
in

ner and form above pleaded, and the matter in the same con-
are not sufficient in law to preclude the said S. who as
c. from having and maintaining his said action against the
hn, to which said plea in manner above pleaded the
who as well, &c. is not bound by the law of the land
er; and this he is ready to verify; wherefore for want of
ent plea in this behalf the said S. who sues as well, &c.
dgment and the said debt, together with his damages oc-
d by the detaining of that debt, may be adjudged to him, &c.

the said J. says, that the said plea of him the said J. in Joinder.
and form above pleaded, and the matter therein contained,
sufficient in law to preclude the said S. who as well, &c.
ving and maintaining his said action against him the said
h said plea, and the matter therein contained, the said J. is
o verify and prove as the court shall think fit; and because
S. who as well, &c. hath not answered the said plea, nor
manner denied the same, the said John, as before, prays
nt, and that the said S. who as well, &c. may be barred
iving or maintaining his said action against him, &c. but
the court of our said lord the king now here is not yet ad-
out giving judgment of and upon the premises, day is
e given to the parties aforesaid to come before our lord the
Westminster, until next after to hear judg-
f and upon the same premises, for that the court of our
l the king now here is not advised thereof, &c.

Term, 15. Geo. 2. judgment
ent was given for the plaintiff.
ndant having pleaded in bar,
have shewn that the action in
was first commenced, so that
attached according to the case
nson and Thomas, 2. Lev. 141.
nit, *prima facie* was commenc-

ed the first day of term. This and the
paper book were had in 1762 from Mr.
Solicitor-general Norton, who argued the
case for the plaintiff, and he told me the
Court were of opinion each suit ought
to have been pleaded in abatement of the
other.

This Case is reported in 2. Stra. 1169.

IDDLESEX, to wit. W. S. who sues in this behalf as Debt for having
r our sovereign lord the king as for himself, complains of cloaths laced
lias P. G. being in the custody, &c. of a plea that he ren- with foreign
our said sovereign lord the king and to the said W. S. who lace.
aforesaid, the sum of six hundred pounds, which he owes 22. Geo. 2. c.
jointly detains from him: For that whereas by an act 36.
(a parliament of our late sovereign lord George the Se-
nd king of Great Britain, &c. and holden at Westminster
on the twenty-ninth day of November, in the
second year of his reign, entitled, "An Act for the more
l preventing the Importation and Wear of Foreign
ellery and Brocade, and Gold and Silver Thread Lace,
her Work made of Gold or Silver Lace manufactured in
ign Parts;" it was enacted, amongst other things, that
id after the first day of July 1749, no foreign embroidery
or silver lace should be imported or brought into Great

Britain upon pain of being forfeited and burnt, and upon penalty of one hundred pounds of lawful money of Great Britain to be paid by the said importer thereof for each piece or yard imported: And it was further enacted by the said act, and after the said first day of July 1749, no mercer, lacemaker, berdasher, upholder, milliner, taylor, or other person or persons whosoever should vend, utter, sell, or expose to sale or exchange, barter, truck, or otherwise dispose of any foreign embroidery or silver thread, lace, fringe, brocade, or any other work made thereof, or of gold or silver wire or plate wrought, worked, or manufactured in foreign parts, or sew, work, or make up the same for, in, or upon any garment or wearing apparel, or for, in, or upon any other materials in, with, or upon which the same should be so sewed, wrought, or made up, should be forfeited and burnt, and all and every person or persons who should vend, utter, sell, or expose to sale, exchange, or truck or dispose of, or knowingly sew, work, or make up, in, or upon any garment or wearing apparel any such foreign embroidery, gold or silver thread lace, fringe, brocade, or other work made thereof, or of gold or silver wire or plate wrought, worked, or manufactured in foreign parts, should for every such offence forfeit the sum of one hundred pounds of lawful money of Great Britain: And it was further enacted by the said act, that all foreign embroidery, or silver thread lace, fringe, brocade, or other work made thereof, or of gold or silver wire, or of plate wrought, worked, or manufactured in foreign parts, which after the said first day of July 1749, should be seized within this kingdom, whether the same should be mixed with, sewed, or made up together with other goods or materials, or otherwise, and the apparel, or other materials in, with, or upon which the same should be mixed, sewed, or made up, should be forfeited, and after condemnation thereof should be burnt, and the mercer, lacemaker, dasher, upholder, milliner, taylor, or other dealers in, or maker up of any of the said manufactory in whose house or shop, or in the custody or possession the same should be so found and seized, and thereof convicted, should for each piece or parcel of such embroidery, gold or silver wire or plate that should be found in his, her, or their house, shop, warehouse, custody or possession as aforesaid, and which should have been brought into, or continued there with his, her, or their knowledge, and without their consent, forfeit the sum of one hundred pounds of lawful money of Great Britain: And it was further enacted by the said act, that all foreign embroidery, gold or silver thread lace, brocade work made thereof, or of gold or silver wire or plate wrought, worked, or manufactured in foreign parts, should after condemnation thereof be burnt, together with the garment, wearing apparel, or other materials

upon which the same should be mixed, sewed, wrought, or set up, publickly burnt at such places as the commissioners of majesty's customs in England or Scotland respectively should set: And it was further enacted by the said act, that the several penalties and forfeitures in that act mentioned should and might be executed and determined by bill, plaint, or information in any of his majesty's courts of record at Westminster, or in the court of session in Scotland respectively, wherein no essoin, protection, privilege, wager of law, or more than one imparlance should be allowed, and one moiety of the said penalties or forfeitures should be to the king's majesty, and the other moiety to such person or persons as would sue for or prosecute the same: And it was further enacted by the said act, that if any question or doubt should arise where the said goods were manufactured, the proof should be upon the owner or claimer of the said goods, or be prosecuted against being guilty of an offence against the act, and not upon the custom, any law, usage, or custom to the contrary notwithstanding, as by the said act, amongst other things (relation being thereunto had) more fully appears: And the said W. S. who sues as before said, further says, that the said Peter, on the twenty-third day of December, in the year of Our Lord 1765, and long before, and thence hitherto hath been and still is a taylor, and a dealer in the trade of gold and silver lace made and manufactured in foreign parts, and in foreign brocade and embroidery, gold and silver thread, and wire and plate, and the said trade and businesses during all that time used and exercised, to wit, at Westminster in the said county of Middlesex, and that after the making the said act, and after the first day of July, in the said year of Our Lord 1749 mentioned in the said act, and within the space of three years next before the commencement of this suit, to wit, on the twenty-third day of December, in the year of Our Lord 1764, at Westminster aforesaid, there was found and seized in the house of the said Peter, and in his possession, he the said P. so then being taylor and dealer in the said manufactures as aforesaid, one coat laced with silver thread lace sewed thereon, one cloth coat laced with silver thread lace sewed thereon, one pair of breeches laced with silver thread lace sewed thereon, one coat laced with gold thread lace, and one silver tissue shape waistcoat brocaded with gold and silver thread, which said lace was sewed on the said two coats, two waistcoats, and one pair of breeches, and every part thereof, were and had been before made, manufactured, and fabricated in foreign parts, and the said shape so embroidered as aforesaid, and the said embroidery had been and were before then made, manufactured, and fabricated in foreign parts, which said two coats, two waistcoats, one pair of breeches so laced as aforesaid, and the said shape so embroidered as aforesaid had been before then brought and placed in the said house of the said Peter, and was then and continued with the knowledge, privity, and consent of the said P. against the form and effect of the said act, the said P. forfeited for the said offence the sum of six hundred pounds, being one hundred

dred pounds for each and every of the said two coats and two waistcoats, and one pair of breeches, and one shape, whereby and by force of the said act an action hath accrued to our said lord the king and to the said W. S. who sues as aforesaid, to demand and have of the said P. the said six hundred pounds above demanded; yet the said P. although often requested, hath not yet paid the said six hundred pounds, or any part thereof, to our said lord the king and the said W. S. who sues as aforesaid, or to either of them, but to pay the same to our said lord the king and the said W. S. who sues as aforesaid, or either of them, he the said Peter hath hitherto altogether refused, and still doth refuse, to the damage, &c,

(a) Declaration against the provost marshal of Tortola for the escape of a prisoner in execution of two judgments recovered by the plaintiff in the court of common pleas, the writs having been executed, and the escape permitted by the deputy provost-marshal.

LONDON, to wit. Mark Davis, and Philip Protheroe complain of John Pownall, being in the custody of the marshal, &c. of a plea that he render to them seven thousand five hundred and forty-eight pounds four shillings and ninepence of good and lawful money of Great Britain, which he owes to and unjustly detains from them: For that whereas the said Mark and Philip heretofore, to wit, on the fifth day of July, in A. D. 1786, in a certain court of record of our said lord the king, to wit, the court of common pleas of the Virgin Islands, holden at Tortola, one of the said Virgin Islands, before the honourable James Robertson, esquire, chief justice, and his companions, assistant justices of his majesty's court of common pleas of the said islands, by the consideration and judgment of the same court recovered against one James Grigg and one William Grigg for a certain debt before then confessed in the same court by the said James Grigg and William Grigg, the sum of three thousand two hundred and seventy-nine pounds fourteen shillings and sevenpence halfpenny of lawful money of Great Britain, equal to six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings current gold and silver money of the said Virgin Islands, exchanged at eighty-seven and a half per cent. with costs: And the said Mark and Philip in fact say, that the said costs so adjudged to them the said Mark and Philip as aforesaid, were afterwards, to wit, on the said fifth day of July, A. D. 1786, at Tortola aforesaid, to wit, at London, in the parish of Saint Mary-le-Bow, in the ward of Cheap, taxed in due form of law, and then and there amounted to a large sum of money, to wit, the sum of nine pounds nine shillings and twopence current money of the said islands, amounting to a large sum of money, to wit, the sum of five pounds and tenpence of lawful money of Great Britain, and the said judgment being in full force, and the said sum of money and costs so recovered as aforesaid being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining the said sum of money and costs by them recovered as aforesaid, afterwards, to wit, on the same day and year aforesaid, duly sued and prosecuted out of the said court of common

(a) See Vol. V. ante, Debt on Simple Contracts, p. 275, and note, p. 277. These following precedents being com-

municated too late to come in their proper place. (See Debt on Escape, Vol. V. p. 222.)

the said Virgin Islands, a certain writ of our said lord bearing date the fifth day of July, in the twenty-sixth year of the reign of our said lord the now king, against the said James Grigg and William Grigg, of and upon the aforeaid judgment directed to the provost marshal for the said Virgin Islands and his lawful deputy, by which said writ our said lord the king did command the said provost marshal or his lawful deputy to recover the said sum of money so recovered by the said judgment and with the costs so taxed as aforeaid, and all subsequent that execution of the goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, and annuities belonging to the said James Grigg and William Grigg, and debts due by the said James Grigg and William Grigg in the manner directed and appointed, by virtue of a certain act of the said island in that case made and provided, and in case he the said provost marshal or his lawful deputy could not immediately find goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, annuities, and debts of the said James Grigg and William Grigg, to attach the bodies of the said James Grigg and William Grigg, and them safely to keep until the said judgment should be satisfied and paid, and of the proceedings of the provost marshal or his lawful deputy therein to make return within thirty-one days from the date of the said writ of our said lord the now king, and thereof not to fail, as the said provost marshal or his lawful deputy should answer the contrary at the the said provost marshal or his lawful deputy. And also the said Mark and Philip heretofore, to wit, on the fifth day of July, in the said A. D. 1786, in the said court of common pleas of the Virgin Islands holden at Tortola aforeaid, in the said Virgin Islands, before the honourable James Rosquire, chief, and his companions, assistant justices of the said court of common pleas of the said islands, by the action and judgment of the same court recovered against the said James Grigg for certain damages before that time confessed by the said James Grigg, the sum of four hundred and eighty-four pounds eighteen shillings and tenpence of lawful money of Great Britain, equal to nine hundred and ninety-five shillings and threepence current gold and silver money of the said Virgin Islands, exchange at eighty-seven and a half pence with costs: And the said Mark and Philip in fact say, that the said last-mentioned costs so adjudged to them the said Mark and Philip as aforeaid, were afterwards, to wit, on the fifth day of July in the said A. D. 1786, at Tortola aforeaid, to London aforeaid, in the parish and ward aforeaid, taxed by the court of law, and then and there amounted to a large sum of money, to wit, the sum of eight pounds five shillings and two pence current money of the said islands, amounting to a large sum of money, to wit, the sum of four pounds eight shillings and one penny lawful money of Great Britain, and the said last-mentioned judgment being in full force, and the said damages and last-mentioned

mentioned costs, being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining of the said damages and the said last-mentioned costs so by them recovered as aforesaid, afterwards, to wit, on the same day and year last aforesaid, sued and prosecuted out of the said court of common pleas of the said Virgin Islands, a certain other writ of our said lord the now king, bearing date the fifth day of July, in the twenty-sixth year of the reign of our said lord the now king against the said James Grigg, of and upon the said last-mentioned judgment, directed to the provost marshal for the Virgin Islands or his lawful deputy, by which said last-mentioned writ our said lord the king did require and command the said provost marshal or his lawful deputy, to levy the said sum of four hundred and eighty-four pounds eighteen shillings and tenpence of lawful money of Great Britain, equal to nine hundred and nine pounds five shillings and threepence of current gold and silver money of the said Virgin Islands, exchanged at eighty-seven and a half *per cent.* by the said last-mentioned judgment so recovered as aforesaid, with the said last-mentioned costs so taxed as aforesaid, and all subsequent costs of that execution of the goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, and annuities, belonging to the said James Grigg, and debts due to the said James Grigg, in the manner directed and appointed by virtue of a certain act of the said island of Tortola in that case made and provided; and in case he the said provost marshal or his lawful deputy could not immediately find sufficient goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, and annuities, and debts of the said James Grigg, to attach the body of the said James Grigg, and him safely keep until the said last-mentioned judgment should be satisfied and paid, and of the proceedings of the said provost marshal or his lawful deputy therein to make return within thirty days from the date of the said last-mentioned writ of our said lord the now king, and thereof not to fail, as the said provost marshal or his lawful deputy should answer the contrary at the peril of the said provost marshal or his lawful deputy: And the said Mark and Philip further say, that the said John Pownall, before the respective time of issuing and prosecuting of the aforesaid writs out of the said court as aforesaid, was, and from thence hitherto hath been, provost marshal for the said Virgin Islands, and that during all that time it was the duty of the said John Pownall, as provost marshal as aforesaid, by himself or his sufficient and lawful deputy, to duly execute all such writs as aforesaid, sued and prosecuted out of the said court of common pleas of the Virgin Islands, and so directed to him or his lawful deputy as aforesaid, and by himself or his sufficient and lawful deputy, to detain and keep in safe custody all persons by him or such his deputy as aforesaid taken or had in execution by virtue of the same: And the said Mark and Philip further say, that by the said first-mentioned writ so sued and prosecuted out of the said court of common pleas, and so directed as aforesaid, before the return thereof, to wit, on the fifth day of July, in the said A.D.

1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, was delivered to one Maurice Lisle, he the said Maurice Lisle then and there being the lawful deputy of the said John Pownall as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law: And the said Mark and Philip further say, that afterwards, and before the execution of the said last-mentioned writ so delivered to the said Maurice Lisle as aforesaid, and before the return of the said writ secondly above-mentioned, to wit, on the fifth day of July, A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, the said writ secondly above-mentioned, so sued and prosecuted out of the same court, and so directed as aforesaid, was delivered to the said Maurice Lisle, he the said Maurice Lisle so then and there being the lawful deputy of the said John Pownall, as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law; and the said Mark and Philip in fact say, that the said Maurice Lisle, being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was so provost marshal as aforesaid, and before the return of either of the said writs so sued and prosecuted as aforesaid, to wit, on the tenth day of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, by virtue of the said writs, attached, took, and arrested the said James Grigg by his body, and then and there had and detained him in execution of the said judgment at the suit of the said Mark and Philip, as well for the said sums of six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings and nine pounds nine shillings and twopence, as for the said sums of nine hundred and nine pounds five shillings and threepence and eight pounds five shillings and twopence, current money of the said islands, amounting in the whole to a large sum of money, to wit, the sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny of lawful money of Great Britain, and so had and kept, and detained the said James Grigg in execution at the suit of the said Mark and Philip as aforesaid, until he the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was provost marshal of the said island as aforesaid, to wit, on the twentieth day of August, A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, without the licence and against the will of the said Mark and Philip, voluntarily and without any legal warrant or authority whatsoever, permitted and suffered the said James Grigg to go at large and escape out of the custody of him the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, the said sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny, and every part thereof then and still being wholly unpaid and unsatisfied to the said Mark and Philip;

Foreign laws
must be proved
as facts.
Cowp. 174.

Philip: And the said Mark and Philip further say, that by the laws established in the said Virgin Islands before and at the time of the said arrest and escape, and still in force there, any prisoner being in the custody of the provost marshal for the time being, or his deputy, in execution of any judgment recovered by any person or persons against such prisoner, in any court of our said lord the king there for any debt due to such person or persons, hath escaped out of such custody the provost marshal hath been and is liable to satisfy such person or persons the sum of money remaining due and unpaid to him or them upon such judgment, to wit, at London aforesaid, in the parish and ward aforesaid; by reason of all such premises an action hath accrued to the said Mark and Philip to demand and have of and from the said John Pownall the said sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny, parcel of the said sum of seven thousand five hundred and forty-three pounds four shillings and ninepence above demanded: And whereas also the said Mark and Philip heretofore, to wit, on the said fifth day of July, in the said A. D. 1786, in the court of common pleas of the Virgin Islands, holden at Tortola aforesaid, one of the said Virgin Islands, before the honourable James Robertson, esquire, chief, and his companions, assistant justices of his majesty's court of common pleas of the said islands, by the consideration and judgment of the same court recovered against the said James Grigg and William Grigg, for a certain other debt before that time confessed in the same court by the said James Grigg and William Grigg, the further sum of three thousand two hundred and seventy nine pounds fourteen shillings and sevenpence halfpenny of lawful money of Great Britain, equal to six thousand one hundred forty-nine pounds nine shillings and tenpence three farthings, current gold and silver money of the said Virgin Islands, exchange at eighty-seven and a half *per cent.* with costs: And the said Mark and Philip in fact say, that the said last-mentioned costs, so adjudged to them the said Mark and Philip as aforesaid, were afterwards, to wit, on the said fifth day of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, taxed in due form of law, and then and there amounted to a large sum of money, to wit, the sum of nine pounds nine shillings and twopence, current money of the said island, amounting to a large sum of money, to wit, the sum of five pounds and tenpence of lawful money of Great Britain, and the said last judgment being in full force, and the said last-mentioned sum of money and the said last-mentioned costs so recovered as aforesaid being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining of the said last-mentioned sum of money and the said last-mentioned costs so by them recovered as aforesaid, afterwards, to wit, on the same day and year last aforesaid, sued and prosecuted out of the said court of common pleas of the said Virgin Islands a certain other writ of our said lord the king, bearing date the fifth day of July, in the twenty-sixth year of the reign of our said

said lord the now king, against the said James Grigg and William Grigg, of and upon the said last-mentioned judgment, directed to the provost marshal for the said Virgin Islands or his lawful deputy, by which said last-mentioned writ our said lord the king did require and command the said provost marshal or his lawful deputy to levy the said last-mentioned sum of money, so recovered by the said last-mentioned judgment as aforesaid, with the said last-mentioned costs so taxed as aforesaid, and all subsequent costs of that execution of the goods, chattels, slaves, lands, tenements, and hereditaments, rent, charges, and annuities, belonging to the said James Grigg and William Grigg, and debts due to the said James Grigg and William Grigg, in the manner directed and appointed by virtue of a certain act of the said island of Tortola in that case made and provided; and in case he the said provost marshal or his lawful deputy could not immediately find sufficient goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, annuities, and debts of the said James Grigg and William Grigg, to attach the bodies of the said James Grigg and William Grigg, and them safely to keep until the said last-mentioned judgment should be satisfied and paid, and of the proceedings of the said provost marshal or his lawful deputy therein to make return within thirty days of the date of the said last-mentioned writ of our said lord the now king, and thereof not to fail; as the said provost marshal or his lawful deputy should answer the contrary at the peril of the said provost marshal or his lawful deputy: And the said Mark and Philip further say, that the said John Pownall, before and at the time of suing and prosecuting of the said last-mentioned writ out of the said court as aforesaid, was and from thence hitherto hath been provost marshal of the said Virgin Islands, and that during all that time it was the duty of the said John Pownall, as provost marshal as aforesaid, by himself or his sufficient and lawful deputy, to duly execute all such writs as aforesaid sued and prosecuted out of the said court of common pleas of the said Virgin Islands, and so directed to him or his lawful deputy as aforesaid, and by himself or his sufficient and lawful deputy as aforesaid, taken or had in execution by virtue of the same: And the said Mark and Philip further say, that the said last-mentioned writ so sued and prosecuted out of the said court of common pleas, and so directed as aforesaid, before the return thereof, to wit, on the said fifth day of July, in the said A. D. 1756, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, was delivered to the said Maurice Lisle, he the said Maurice Lisle then and there being the lawful deputy of the said John Pownall as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law: And the said Mark and Philip further say, that the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards and whilst the said John Pownall was so provost marshal as aforesaid, and before the return of the said last-mentioned writ so sued and prosecuted as aforesaid, to wit, on the tenth day of

of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, by virtue of the said last-mentioned writ, attached, took, and arrested the said James Grigg by his body, and then and there had and detained him in execution of the said last-mentioned judgment, at the suit of the said Mark and Philip for the said last-mentioned sums of six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings, and nine pounds nine shillings and twopence, current money of the said islands, amounting in the whole to a large sum of money, to wit, the sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny of lawful money of Great Britain, and so had, kept, and detained the said John Grigg in execution at the suit of the said Mark and Philip as last aforesaid, until he the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was provost marshal of the said islands as aforesaid, to wit, on the twentieth day of August, in A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, without the licence and against the will of the said Mark and Philip, voluntarily, and without any legal warrant or authority whatsoever, permitted and suffered the said James Grigg to go at large and escape out of the custody of him the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, the said last-mentioned sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny, and every part thereof, then and still being wholly unpaid and unsatisfied to the said Mark and Philip: And the said Mark and Philip further say, that by the laws established in the said Virgin Islands before and at the time of the said last-mentioned arrest and escape, and still in force there, if any prisoner being in the custody of the provost marshal for the time being, or his deputy, in execution of any judgment recovered by any person or persons against such prisoner in any court of our said lord the king there, for any debt due to such person or persons, hath escaped out of his custody, the provost marshal hath been and is liable to satisfy such person or persons the sum of money remaining due and unpaid to him or them upon such judgment, to wit, at London aforesaid, in the parish and ward aforesaid; by reason of all which last-mentioned premises an action hath accrued to the said Mark and Philip to demand and have of and from the said John Pownall the said last-mentioned sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny, other parcel of the said sum of seven thousand five hundred and forty-eight pounds four shillings and ninepence above demanded. [There was another Count upon the judgment against James Grigg, only mentioned in the first Count.] Common conclusion in debt.

VICARY GIBBS.

DEBT

(a) DEBT ON BYE LAW.

The MASTER, GOVERNOR, and } MIDDLESEX, to wit. (a) Declaration
 COMPANY of the ART and } The master, governor, and by Surgeons
 SCIENCE of SURGEONS of } company of the art and science Company, to
 LONDON against FARQUHAR. } of surgeons of London com- recover five
 plain against Walter Farquhar, being, &c. of a plea that he ren- month from one
 der to them twenty pounds of, &c. which he owes to and unjustly who practised
 detains from them; for that whereas the lord Charles, late king surgery in the
 of England, by his letters patent under the great seal of England, city of West-
 bearing date at C. the fifteenth day of August, in the fifth year of minster, with-
 his reign, reciting, that by a certain act, in a parliament of the out having pass-
 ord Henry the Eighth, late king of England, his predecessor, in ed examination,
 the thirty-second year of his reign, it was among other things and received his
 enacted, that the two then several and distinct societies of barbers grand diploma,
 and surgeons of London, and every of them, being free of both as required by a
 said societies according to the custom of the city of London, bye law of the
 and their successors, should from thenceforth be and remain united, said company.
 and made and reduced into one intire body corporate and perpetual Recital of divers
 commonalty, by the name of masters or governors of the mystery parts of a char-
 and company of barbers and surgeons of London, for ever there- ter of Cha. 1.
 ter, and by no other name, as by the said act did more fully ap- which reciting
 pear: And reciting further, that the men of the same societies, as an act of Hen. 8.
 well from the time they were so united and reduced into one body for uniting the
 corporate and politic, as before respectively had holden, used, and company of bar-
 enjoyed divers liberties, franchises, immunities, customs, and pre- bers and sur-
 eminences as well within his city of London, the suburbs and li- geons, confirms,
 berties thereof, as within certain villages and places to the said &c.
 city adjacent, as well on account of the said act of parliament, and
 other acts of parliament, as by virtue and on account of divers
 charters and letters patent by his dearly beloved father, the late
 king James, of blessed memory, and others his progenitors and
 predecessors, late kings and queens of England, to the freemen of
 the said societies and their successors, or either of them, heretofore
 made and granted: And further reciting that his beloved subjects
 the masters or governors of the mystery or company of barbers
 and surgeons of London aforesaid, had most humbly besought him
 that he would ratify unto them the masters or governors of the
 mystery or commonalty aforesaid, and their successors, their an-
 cient privileges, liberties, franchises, customs, and pre-eminences
 heretofore granted and used, and also would duly confirm the for-
 mer grants and charters of his progenitors and predecessors afore-
 said, and would explain, amplify, and reduce to certainty all de-
 bts, ambiguities, and matters of doubt happening in the same
 act, and that for the better and more sure rule and government
 well of the free barbers and surgeons within his said city, and
 within the liberties and precincts by those letters patent under
 granted, as of others being foreigners there exercising their arts

(a) This is among the precedents lately communicated, as in note, p. 375. (See
 the By-Law, Vol. V. p. 165.)

or mysteries, or either of them, and for the suppression of it
 tors, and other unskilful persons, by whose ignorance very
 of his subjects daily sustained and suffered many evils and
 ances in their bodies, also for the better and more ready sup
 of his fleets and ships as well with barbers and surgeons, l
 and experienced, as with emplaisters, poultices, medicines
 other necessities for his service and expedition at sea, he was
 graciously pleased to enlarge the jurisdiction of the said mast
 governors of the mystery or commonalty aforesaid, and their
 cessors, and to grant to them anew certain other privi
 liberties, and immunities as to him should seem more expect
 he therefore graciously consenting to such their petition,
 hoping that if the said masters or governors of the mystery and
 pany aforesaid, and their successors, should from his grant hold
 enjoy large liberties and privileges, they might then think t
 selves more especially and strongly obliged to employ and b
 all the service they could for him, his heirs, and successors,
 special grace, certain knowledge, and mere motion, for hi
 his heirs, and successors, did grant, approve, ratify, and co
 unto the aforesaid masters or governors of the mystery and
 pany aforesaid, and their successors, all and singular so many
 so great the same such sort and the like manors, messuages,
 tenements, court leet, views of frankpledge, and other
 whatsoever, customs, liberties, franchises, immunities, a
 tances, fines, amerciements, jurisdictions, and hereditaments
 soever, as well within his city of London, the liberties and su
 thereof, as within the liberties and precincts thereunder by
 letters patent granted, as and which the men of the afore
 cieties of barbers and surgeons, or either of them, then late
 held, used, and enjoyed, or ought lately to have had, holden
 and enjoyed, or their predecessors, by whatsoever name or
 or by whatsoever incorporation, or whether they had been
 tofore incorporated or not, had ever lawfully had, holden,
 and enjoyed of hereditary estate to them and their success
 ever, or otherwise, by reason or colour of any letters patent
 of his progenitors or predecessors, late kings or queens of En
 theretofore in any manner soever rightfully and lawfully
 confirmed, or granted, or by colour of any lawful presents,
 custom, or by any other lawful means, right, or title then
 had, used, or accustomed, although they had not been u
 them, or any of them, or might be, or had been abused, m
 or discontinued; as also all and singular the charters and
 patents aforesaid, and all things in them, or any of them,
 granted, ratified, or confirmed, or mentioned to have been
 granted, ratified, or confirmed, according to the true intent
 said charters and letters patent: And further reciting that l
 Recital of letters
 patent of king
 James.

dearly beloved father, the late king James, by his letters
 sealed with his great seal of England, bearing date at Westm
 the thirtieth day of January, in the second year of our reig
 England, France, and Ireland, and over Scotland the

eighth, willed, and for himself, his heirs, and successors, granted unto the masters or governors of the mystery and commonalty of barbers and surgeons of London aforesaid, and their successors, that the masters and governors of the mystery and commonalty aforesaid, and their successors, should for ever thereafter have full power and authority to take and have the supervisal, scrutiny, examination, judgment, and correction of all and all manner of, as well freemen as others, whomsoever using or exercising the mystery, art, or faculty of barbers and surgeons, or either of them, as well within the said city of London, the liberties and suburbs thereof, as in other villages, hamlets, or places whatsoever, within three miles of the said city, as well within the liberties as without, where any person using or exercising the mystery, art, or faculty of barbers or surgeons should dwell or reside, or should happen to dwell or reside; reciting also, that by the same letters patent the said late king, his most dear father, had given and granted divers other powers, liberties, jurisdictions, and pre-eminences unto the aforesaid masters or governors of the mystery and commonalty aforesaid, and unto their successors, as well within the aforesaid city of London, as within the distance of three miles of the same city, as well within the liberties as without, as by the same letters patent did more fully appear; he considering in his royal mind that from the time of the grant of the said letters patent, very many new houses and habitations had been then lately built and erected in parts to his said city of London adjacent, especially within seven miles of the said city, and that by the daily concourse of his subjects to the said city, the number of them who exercised and professed the art and faculty of barbers and surgeons was greatly increased, especially of those who were wholly unskilful and incapable in due manner to execute the duties of that art and profession for the good and safety of his people; he willed therefore, and by those letters patent for himself, his heirs, and successors, did grant unto the masters or governors of the mystery and commonalty of barbers and surgeons of London aforesaid, and their successors, that all and singular, as well freemen of the said city, as foreigners, whether they might be native subjects of his kingdom of England or aliens, professing and exercising the mystery or art of a barber or surgeon, or either of them, within his cities of London and Westminster, the liberties and suburbs thereof, and in other towns, hamlets, and places whatsoever, within the distance of seven miles of the said city of London, as well within the liberties as without, for their own private lucre and profit (physicians duly approved of by the president and commonalty of the college of physicians, London, and admitted and allowed to practise physic being only excepted) should and might from time to time for ever thereafter be subject and bound to the power, supervisal, scrutiny, examination, government, summoning, convocation, visitation, swearing, correction, and all other impositions, taxes, and collections whatsoever of the aforesaid masters or governors of the mystery and commonalty of barbers and surgeons

surgeons of London and their successors, masters and governors of the said corporation, and to all manner of pecuniary payments, charges, fines, amerciaments, imprisonment, pains, and penalties whatsoever by the aforesaid masters or governors of the mystery or commonalty aforesaid for the time being from time to time inflicted or imposed; and that all and singular such persons professing or exercising the aforesaid arts of barbers and surgeons, or either of them, within his said cities of London and Westminster, or in whatsoever towns, hamlets, and places within seven miles of his said city of London (except as before excepted) should be holden and subject by and to the same laws, ordinances, oaths, impositions, taxes, fines, imprisonments, distresses, penalties, prescriptions, and constitutions to and by which the barbers and surgeons of the said city of London by any acts of parliament whatsoever, or by any charters or letters patent whatsoever, of any of his predecessors or progenitors theretofore to the aforesaid masters or governors of the mystery and commonalty aforesaid, by whatsoever names made and granted, might, or ought to be holden: And the said late king Charles the First by his said letters patent further reciting, that the masters or governors of the mystery and commonalty of barbers and surgeons aforesaid, and their assistants, out of their commendable care for the better suppression of impostors, and others unskilled in the art and science of surgery aforesaid, and avoiding unwholesome ingredients, implasters, ointments, poultices, and medicaments, had been used to elect out of themselves ten examiners, who all professing the aforesaid art and science of surgery, might survey, examine, and try as well the freemen of the aforesaid society as foreigners, and their medicines and instruments; he therefore graciously consulting the welfare and public good of his subjects, willed, and by those letters patent for himself, his heirs, and successors, granted unto the masters or governors of the mystery and commonalty aforesaid, and their successors, that for ever thereafter they should have power and authority of electing and constituting ten of the freemen of that society, in form in those letters patent below ordained, who should continue in that office during their natural lives, unless for any apparent default, or other reasonable cause, they, or any of them, should by the masters or governors of the mystery and commonalty aforesaid for the time being, and the assistants of the same, or by the major part of them (of whom he willed that some of the masters or governors there should be two) be from that office removed: And the said late king Charles the First, by his said letters patent, further reciting, that for the better preservation of the welfare of his subjects and preventing of dangers and inconveniencies which might happen to them by unskilful impostors, and unexperienced professors of the art of surgery, willed, and by those letters patent, of his special grace, certain knowledge, and mere motion, for himself, his heirs, and successors, granted unto the masters or governors of the mystery and commonalty aforesaid, and their successors, that no person or persons whatsoever for the future, whether

ther he or they should be a freeman or freemen of the said society, or a foreigner or foreigners, or whether he or they should be a native subject or subjects of the kingdom of England, or an alien or aliens, should exercise or use the said art and science of surgery within his said cities of London and Westminster, or either of them, or within the distance of seven miles of the said city of London, for his or their private lucre or profit (the aforesaid physicians so as aforesaid approved of and admitted, being only excepted) unless the said person or persons should have been first tried and examined, in the presence of two or more of the masters or governors of the mystery and company aforesaid, who should be for the time, by four or more of the examiners of the same society for the time being so as aforesaid elected and appointed, and by the public letters testimonial of the same masters or governors, under their common seal, approved of and admitted to exercise the said art or science of surgery, according to the laws and statutes of that his kingdom of England, on pain of forfeiting the sum of five pounds for every time wherein, without such allowance and admonition, he or they should practice surgery, or exercise the said art or science of surgery, and that the masters or governors of the mystery and commonalty aforesaid, for the time being, might levy and cover such penalties and forfeitures, and should have one moiety thereof for himself, his heirs, and successors, and the other moiety to be applied to the public use of the commonalty and society aforesaid, from time to time to be prosecuted by distress or action in any court of record, or not of record, to be holden within his said city of London, or by any other lawful means whatsoever, or in any other court whatsoever, as to them should seem more expedient, by the said letters patent (a) in the court of chancery of our lord the new king, at Westminster, inrolled of record (an exemplification of which said record under the great seal of , and bearing date , the said master, governors, and commonalty of the art and science of surgeons of London bring here into court), it more fully and at large appears: And the said master, governors, and commonalty of the art and science of surgeons of London further say, that by a certain statute made in the parliament of the said George the Second, the late king of Great Britain, holden at Westminster, in the eighteenth year of his reign, intituled, **An Act for making the Surgeons of London, and the Barbers of London two separate and distinct Corporations,** it is enacted, that the union and incorporation of the barbers and surgeons, made and effected by the therein recited act of the thirty-second year of Henry the Eighth, should from and after, &c. &c. (insert by way of recital the clause whereby the union and incorporation of barbers and surgeons was dissolved, the surgeons made a separate

Recital of several clauses in 18. Geo. 2. for making the surgeons and barbers distinct corporations.

(a) The original charter is in the possession of the Barber's Company, and will be produced:—The following protest is therefore inserted instead of that in the original: "Of the said king Charles the

First under his great seal of England, and which said letters patent under the great seal of the same lord the king of England."

T. D.

C c 2

body,

body, and may enjoy rents not exceeding two hundred pounds *per annum*): And by the said statute it is further enacted, that it should and might be lawful, &c. &c. (the clause empowering the corporation to choose officers): And by the said statute it is further enacted, that it should and might be lawful, &c. &c. (the clause empowering any two of the masters and governors, with assistants, to hold courts and make or annul bye laws): And by the statute it is further enacted, that John Ranby, esquire, principal serjeant surgeon to his majesty, &c. &c. (names of the master, wardens, examiners, and court of assistants): And by the said statute it is further enacted, that it should and might be lawful to and for the said J. R. &c. &c. (master, &c. (a) to meet on the first day of July 1745, to complete the court of assistants to the number of twenty-one): And by the said statute it is further enacted, that the master, governors, &c. &c. (annual meetings to choose officers): And the master, governors, and commonalty of the art and science of surgeons of London in fact say, that after the making of the said letters patent, and of the same act of parliament, and before the exhibiting of this bill, to wit, on the seventh day of April 1748, at London, in the parish of St. Mary, Ludgate, in the ward of Farringdon Within, the (b) [then master or governor, and the then two governors and wardens, and nine or more of the then members of the said court of assistants of the said company, being then and there duly assembled, in order to treat and consult about and concerning the rule, order, state, and government of the said company, did make and ordain a certain ordinance, or bye law, requisite and convenient for the said company, and not repugnant, &c.] *said master, governors, and commonalty of the art and science of surgeons of London, being then and there assembled for the good government of the said freemen of the aforesaid art and science, and their said commonalty, and their successors, made a certain ordinance, or bye law, not repugnant to the laws of this realm, whereby among other things, it is ordered, that if any person should practise surgery, without having first been duly examined by the court of examiners, and having received the grand diploma under the seal of the company, he should forfeit and pay to the use of the company the sum of five pounds of, &c. for every month he should so continue to practise, or profess to practise without such licence and authority, which said ordinance or bye law so as aforesaid made and ordained, afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, at the request of the said master, governors, and commonalty of the art and science of surgeons of London aforesaid, and according to the*

(a) I think it should be shewn that this meeting was holden accordingly, and what five persons were elected to fill up the number of twenty-one. T. D.

(b) The part in Italic was altered for that between crotchets above, by sir Thomas Davenport.

I think it would be proper here to name the master, wardens, and members of the court of assistants, who were present at the making of this bye law.

T. D.

tenor

a certain act of parliament in such case made and provided, 19. Hen. c. 7.
 read, and examined by the right honourable Philip lord Black. Com. t. 1.
 k, then lord high chancellor of Great Britain, sir William P. 476.
 ight, then lord chief justice of the lord George the Second,
 of Great Britain, assigned to hold pleas in the court of
 lord the king, before the king himself, and sir J. Willes,
 then lord chief justice of the same lord the king of the
 at Westminster, and by them approved, to wit, at West-
 aforesaid, in the county of Middlesex, of all which pre-
 said W. F. afterwards, to wit, on the first day of January
 t Westminster aforesaid, in the said county of Middlesex,
 ce, and the said W. F. afterwards (a), to wit, on the same
 year last aforesaid, was there in due manner summoned
 ired to attend the court of examiners of the same company
 ons to be by them examined as aforesaid: And the said
 governors, and commonalty of the art and science of sur-
 London in fact say, that the said W. F. after the mak-
 e aforesaid ordinance or bye law, and before the exhibiting
 ill, to wit, on the first day of February 1781, and for four
 then next following, within the said city of Westminster,
 id county of Middlesex, did practise surgery without hav-
 been duly examined by the court of examiners (b) of the
 monalty, and without having received the grand diploma
 e seal of the said commonalty, contrary to the form and
 the aforesaid ordinance or bye law, to wit, at West-
 aforesaid, in the said county of Middlesex, whereby an
 ath accrued to the said masters, governors, and common-
 he art and science of surgeons of London aforesaid, to de-
 d have of and from the said W. F. the said twenty pounds
 manded; nevertheless the said W. F. although, &c. hath
 &c.; damages twenty pounds, and therefore, &c.

THOMAS DAVENPORT.

re must be set forth who were
 ten examiners for that year,
 re had notice, and who com-
 court of examiners, at which
 moned to attend and be exa-
 it the court was holden, and
 attend.

T. D.

(b) The examiners were not elected
 annually, as sir T. conceived; but be-
 ing once appointed held the office during
 life, or until removed. The component
 members of the court of examiners, at
 which defendant was summoned to at-
 tend, are enumerated, and the averment
 advised by sir T. stated under.

the master, governors, and commonalty of the art and Plea.
 of Surgeons of L. in fact say, that after the making of the
 ers patent, and of the same act of parliament, and be-
 exhibiting of this bill, to wit, said first day of July 1745,
 the hours of ten and two of the clock of the same day,
 J. R. J. S. &c. &c. &c. met at L. aforesaid, to wit, in
 h of, &c. in a certain place there called Surgeons Hall,
 having been duly appointed for that purpose by the said
 . and then elected, chose, and appointed out of the free-

men of the said court or corporation of surgeons, established and incorporated by the same act of parliament by the majority of votes of them the said J. R. &c. being then present at the same meeting H. H. &c. &c. to be of the court of assistants of the same company or corporation, to continue in the same office for and during their natural lives respectively, or until they should be respectively removed out of the same office: And the master, governors, and commonalty of the art and science of Surgeons of L. in fact further say, that afterwards, to wit, on the seventh of April 1748, at L. aforesaid, in the parish and ward aforesaid, J. F. then master, L. S. then governor or warden, and J. W. &c. &c. then members of the said court of assistants of the said company, being then and there duly assembled in order to treat and consult about and concerning the rule, order, state, and government of the said company, did make and ordain an ordinance or bye law requisite and convenient for the regulation of the said company, and not repugnant to the laws of this realm, whereby among other things it is ordained that if any person should practise surgery at any time thereafter without having first been duly examined by the court of examiners, and having received the grand diploma under the seal of the company, he should forfeit and pay to the use of the said company the sum of five pounds of, &c. for every month he should so continue to practise or profess to practise without such licence and authority; which said ordinance or bye law so as aforesaid made and ordained afterwards, to wit, on the same day and year last aforesaid, at L. aforesaid, at the request of the master, governors, and commonalty of the art and science of Surgeons of L. and according to the tenor of a certain act of parliament in such case made and provided, was seen, read, and examined by the, &c. [as in page 388], of all which premises, &c.; and the said W. F. afterwards, &c. was in due manner summoned and required to attend the court of examiners of the same company of Surgeons to be examined as aforesaid, at the next court to be holden on the nineteenth of April, in the year last aforesaid, at the : And the master, governors, and commonalty of the art and science of Surgeons of L. aforesaid in fact further say, that afterwards, to wit, on said Thursday, the nineteenth of April said 1781, at the said theatre in the Old Bailey, in L. aforesaid, in the parish and ward aforesaid, a court of examiners of the said company of Surgeons, consisting of the nine following persons (*i. e.*) &c. &c. then being examiners of the said company of Surgeons, was in due manner had and holden, and that the said W. F. altogether neglected and refused to attend the same court, to be by the same court examined as aforesaid: And the said master, governors, and commonalty of, &c. further say, that the said W. F. after the making of the aforesaid ordinance or bye law, and after he had such notice as aforesaid, and had been so summoned and required to attend the court of examiners of the said company of Surgeons to be examined as aforesaid, and before the exhibiting of this bill, to wit, on the

of May 1781, and for four months, &c. &c. [as in page

the law requiring persons practising (which I suppose is con-
don, and seven miles round
it is not so stated) to be first
ined, and to receive the grand
nder the seal as a proof of the
s approbation, appears to me
reasonable regulation; and sup-
warranted by the provision for
re laws in the act of parlia-
n the charter, I am of opinion
s practising without that qua-
are liable to the penalty thereby

I do not understand this to be
which the having served by sea
ll authorise a man to set up and
nder 22 Geo. 2. and 3. Geo. 3.
he examination and certificate
army and navy surgeons differ
grand diploma does not appear.
it to be substantially different,
ey, as well as the other sur-
stifying without the Company's
will incur the penalty. If
any doubt as to persons cer-
e qualified as surgeons for the
avy, it will be prudent for the
to begin with the others.

J. DUNNING.

inciples of the bye law men-
the case seem well stated and
d, and I am of opinion that it
law, and that therefore the
may compel all persons prac-
ery within seven miles, &c. to
amination touching their ca-
in case of their refusal, to levy
ve pounds per month, and it ap-
e equally compulsory on such as
rd as surgeons, or as surgeons'
he navy or army, as on others.
re given to the Company ena-
to make regulations of this na-
the true reason of their hav-
owers vested in them is, that no
y be suffered to practise sur-
uch only as have skill and abi-
rsons of this description have a
e admitted to the exercise and
f the profession, and if the
from improper motives, should
proper person from admission
privilege, the King's Bench
erfare, and compel them. This
in therefore be no inconveni-
person properly skilled and edu-

cated, but great injury might arise to the
community if persons were permitted to
evade it without having undergone a pro-
per examination, for examination is the
only test of skill. I don't find that
5. Eliz. c. 4. was ever adjudged to extend
to surgeons; indeed, no regulations were
necessary to be made at a period in which
this act passed, concerning the prac-
tisers of surgery in or near L. for more
beneficial regulations had been previ-
ously introduced by 3. Hen. 8. and I
think the true construction of 22. Geo. 2.
and 3. Geo. 3. c. 8. is, that they are on-
ly designed to entitle officers, &c. to set
up trade *immediately*, who otherwise by
stat. Eliz. or by the customs of particular
places must have spent a long time in ser-
vitude, or in following the trade before
they could evade the penalties of the sta-
tute, &c. The bye law of the company
of Surgeons does not prohibit a man
from practice for a number of years, but
only require, on examination, which
once passed, he becomes immediately qua-
lified. It may be objected in behalf of
such as have received certificates, that
the company having thereby testified that
they are qualified, the object of the bye
law, which is examination, is satisfied;
but clearly this should not be urged for
such as have received certificates, *to be*
surgeons mates only, for they were only
certified to have a capacity to act in a
subordinate line, which by no means im-
plies that they have a competence of abi-
lity to act in business for themselves; and
as to such whose certificate was of their
ability to act as surgeons, since the bye
law directs not only that they shall be ex-
amined, but must also receive the grand
diploma under the seal of the company.
I do not think by a certificate alone that
the bye law is satisfied. It seems the
duty and interest of the Company to as-
certain their right, which they cannot do
with less hazard or more effect than by
bringing an action of debt on the bye law
against some practiser within, &c. who
has had a certificate to act as a surgeon.
If the Company should succeed against
him, it will establish its right against all
other pretensions, and if it fails it will
not preclude them from trying their rights
with persons not so qualified, though it
will make them more cautious to whom
they grant testimonials of ability.

T. ERSKINE.

I observe this action is brought under the opinion of Mr. Dunning, but I conceive it to be attended with many difficulties. If the defendant has had any previous notice of the bye law, or has been summoned or required to attend a court of examiners, I think that such matter should be alledged in the declaration.

T. DAVENPORT.

Ground of Sir T. Davenport's doubts :
1st, That the bye law extending to persons practising surgery throughout the kingdom without the authority of the

Company is restrained ; 2d, that a notice served by them on defendant, requiring him to attend, stated their authority to require his attendance as derived from the act of parliament, and not from the charter or bye law from which that authority was in fact derived.

Mr. Dunning, in a consultation upon these objections, agreed with Mr. Davenport that it would be advisable to discontinue this action ; and to proceed *de novo* on a bye law to be made by the company for that purpose.

Declaration for several amerciaments in a court baron.

Vide Cro. Jac. 582. Cro. Eliz. 748.

1. For not appearing at court;

YORKSHIRE, to wit. Francis Ferrard Foliamb, esquire, complains against John Whitehead being, &c. of a plea that he render to him the said F. F. F. ten pounds of, &c. which he owes to and unjustly detains from him ; for that whereas the said F. F. on the first of January 1780 and long before was, and continually from thence hitherto hath been, and still is (a) *seised in his demesne as of fee* of and in the manor of D. with the appurtenances, in the said county of Y. And whereas said J. on said first of January said 1780, and long before was, and continually from thence hitherto hath been, and still is seised in his demesne as of fee of and in a certain messuage, and divers, to wit, forty acres of land, with the appurtenances, situate and being at D. P. within and parcel of the said manor of D. and holden of the said F. F. by fealty and suit of court ; and the said J. being so thereof seised during all the time aforesaid, held the same messuage and land, with the appurtenances, of the said F. F. as of his aforesaid manor (b) *by fealty and suit of court* of the said F. F. of his manor aforesaid, holden yearly and every year from three weeks to three weeks ; and the said F. F. being so seised of the said manor, with the appurtenances as aforesaid, and the said J. being so seised of the said messuage and land, with the appurtenances as aforesaid, the said F. F. saith that he, and all those whose estate he had and now hath of and in the aforesaid manor, with the appurtenances, by reason of the said manor, with the appurtenances, from time, &c. have had, and have been used and accustomed to have a certain court baron belonging to the aforesaid manor, with the appurtenances, holden in and for the said manor, before the suitors of the same court, by his and their steward yearly and every year from three weeks to three weeks, and that all defaults and offences of all the tenants of the said F. F. of the aforesaid manor, and of those whose estate the said F. F. had and hath of and in the same manor,

(a) Mr. F. is not seised in fee, but holds for life only.

A general possession will infer a seisin in fee.

T. DAVENPORT.

(b) Qu. Whether held by fealty and suit of court only, or by rent also ?

T. D.

with

with the appurtenances, in opening any quarry or quarries of stone
 any part of the wastes of the said manor within the said ma-
 nor, without the consent of the lord of the same manor for the
 time being, and in not doing fealty, suit of court, or other services
 to be done by the tenants of the same manor from time whereof
 memory of man, &c. have been presentable in the aforesaid
 court baron by the homage in the said court, charged and sworn to
 present such things in the same court as to them belonged to pre-
 sent, and by the said homage so sworn and charged in the same
 court as aforesaid such amerciaments during all the said time im-
 memorial have used and been accustomed to be assessed, imposed,
 set for all such defaults and offences as aforesaid to them
 seemed meet and convenient to be forfeited therefore to the lord
 of the said manor for the time being, and which said amerciaments
 assessed, imposed, and set as aforesaid, have for all the said time
 memorial been assessed by two discreet tenants of the said ma-
 nor at such court, duly sworn in such court to assess the same;
 the said F. F. being so seised of the manor aforesaid, with the
 appurtenances, and the said J. being so seised of the said messuage
 and land, and one of the tenants of the said F. F. of the said ma-
 nor aforesaid, he the said F. F. in fact saith, that a court baron
 of the said F. F. on the twenty-sixth of May said 1780, was hold-
 en and for the manor aforesaid, to wit, at D. aforesaid, before
 and others, suitors of the same court, by J. B.
 steward, then and there being the steward of the said F. F. of
 the said court there of his said manor; and that the said John (al-
 though he had been before duly warned to appear and do suit and
 service at the said court so holden as aforesaid, and was at the said
 court solemnly called in the said court) did not appear in the same
 court and do suit and service there, but wholly made default therein;
 whereupon at the same court, by A. B. &c. (twelve) tenants of the
 manor being then and there the homage in the same court,
 and there duly sworn and charged to enquire and present those
 things which belonged to the said homage to enquire and present;
 they presented that the said J. owed suit and service to that
 court, and had that day made default therein, and they then and
 there in the same court amerced the said John one shilling in that
 respect, and then and there at the same court C. D. and E. F. two
 discreet tenants of the said manor then and there duly sworn to
 assess the said amerciament, in the same court assessed the said
 amerciament of the said John to one shilling, whereof the said John
 gave wards, to wit, on the same day and year aforesaid, at D.
 aforesaid, had notice, whereby an action hath accrued to the said
 F. F. to demand and have of the said J. one shilling, parcel of the
 ten pounds above demanded: And the said F. F. further
 saith, that the said J. W. before the holding of the same court ba-
 ron had wrongfully opened a stone quarry in a certain part of the
 wastes of the said manor, to wit, in a certain lane, parcel of the
 wastes of the said manor (leading from D. P. aforesaid to a place

2d Count,

For opening
 a stone quarry
 within the waste
 without consent
 of the lord;

called

3d Count,
For not appear-
ing at a sub-
sequent court to
do suit and ser-
vice;

called *W.* (a) within the manor aforesaid, without the consent of the lord of the said manor, and that at the said court baron of him the said F. F. so holden as aforesaid, on the same day and year last aforesaid, at D. aforesaid, within the manor aforesaid (b), it was also presented by the homage aforesaid that the said J. had lately opened a stone quarry in the lane leading from D. P. to W. being the said lane, parcel of the wastes of the said manor, without the consent of the lord of the said manor, and the homage aforesaid then and there amerced the said John five shillings in that behalf, and then and there at the same court, the said , &c. and , &c. so sworn officers as aforesaid, appeared the same amercement of the said John to five shillings; whereof the said John afterwards, to wit, on the same day and year last aforesaid, at D. aforesaid, had notice, whereby an action hath accrued to the said F. F. to demand and have of the said J. the said five shillings, further parcel of the said ten pounds above demanded: And the said F. F. being so seised of and in the said manor, with the appurtenances as aforesaid, and the said John being so seised of the said messuage and land as aforesaid, and one of the tenants of the said F. F. of the said manor as aforesaid, he the said F. F. in fact saith, that a court baron of the said F. F. was afterwards, to wit, the thirtieth of December said 1780, holden in and for the manor aforesaid, to wit, at D. aforesaid, before , &c. and others, suitors of the same court, by the said J. B. gentleman, then and there steward of the said F. F. of his said court there of his said manor; and that the said John, although he had been before duly summoned to appear and attend at that court to do fealty to the lord of the said manor for the lands and tenements which he held of the said lord within that manor, and to have an inquisition found thereof by the homage of that court, and to pay, do, and perform all such duties, rents, suits, and services, as he owed to the lord of the said manor in respect thereof, and was at the said last-mentioned court solemnly called in that court, did not appear or attend in the same court for the purposes aforesaid, or any of them, but wholly made default therein, whereupon at the said last-mentioned court, by , &c. (twelve) tenants of the said manor being then and there the homage in the same last-mentioned court, and charged to enquire and present those things which belonged to the said homage to enquire and present; it was presented that the said J. W. had been previously summoned to attend at that court to do fealty to the lord of the said manor for the lands and tenements which he held of him within the same manor, and to have an inquisition found thereof by the homage of that court, and to pay, do, and perform all such duties, rents, suits, and services as he owed to the lord of the said manor in respect thereof, and had that day made default therein, and the said homage then and there in the

(a) W. is not within the manor.

(b) W. is not alledged to be within the manor, but the lane, parcel of the waste within which the stone quarry was open-

ed, is alledged to be within the manor; if it be so, the declaration is right, if not, then the court baron had no jurisdiction over it.

T. A

the court amerced the said John for such his default the sum of two shillings and sixpence, and then and there at the same last-mentioned court, C. D. and E. F. two discreet tenants of the manor then and there duly sworn to appear the said amerced in the same last-mentioned court, appeared the same amerced of the said John to two shillings and sixpence, whereof said afterwards, to wit, on the same day and year last aforesaid, D. aforesaid, had notice; whereby an action hath accrued to the F. F. to demand and have of the said John said two shillings and sixpence, further parcel of the said ten pounds above demanded: And whereas also said John on the first of November 1781, ^{4th Count, Mutuatus.} D. aforesaid, in the said county of Y. borrowed of the said F. nine pounds eleven shillings and sixpence, residue of the said ten pounds above demanded, to be paid to the said F. F. when he the said John should be thereunto afterwards requested; yet the said John, although often requested, hath not rendered to the said F. the said ten pounds, or any part thereof, but to render the same to the said F. F. hath hitherto altogether refused, and still so refuse. Damage ten pounds, &c.

T. DAVENPORT.

PLEAS IN DEBT.

AND the said defendant, by A. B. his attorney, comes and denies the wrong and injury, when, &c. and says, that the said writing-obligatory in the said declaration mentioned is not his, but in manner and form as the said plaintiff hath above in that behalf alledged; and of this he puts himself upon the country, &c. ^{Plea, non est factum, to a bond. 1. Salk. 274.}

AND the said James says, that the said Thomas ought not to have execution for the damages, costs, and charges aforesaid, in form aforesaid recovered, adjudged to him against him the said James, according to the form and effect of the said recognizance; because he the said James says, that the said John Clark in the said judgment mentioned, after the recovery of the said judgment, and before the issuing of any writ of *capias ad satisfaciendum* thereon against him the said J. C. died, to wit, at, &c. in the county of Y. and within the jurisdiction of this court; and this he the said James is ready to verify; wherefore he prays judgment if the said Thomas ought to have execution for the damages, costs, and charges aforesaid, in form aforesaid recovered, adjudged to him against him the said James, according to the form and effect of the said recognizance, &c. ^{Plea, that the principal died before the issuing of a *ca. sa.* Palace court.}

AND

Plea of *non dam-*
nificatus to a
bond of indem-
nity.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, in the said declaration mentioned, and it is read to him in these words, to wit: Know all men, &c. [copy the bond exactly] he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: Whereas, &c. [copy the condition of the bond verbatim] which being read and heard, the said defendant saith, that the said plaintiff ought not to have or maintain his aforesaid action thereof against him, because he says, that the said plaintiff hath not been damaged at any time since the execution of the said writing-obligatory hitherto in any manner whatsoever, for or by reason or means of any matter, cause, or thing in the condition of the said writing-obligatory mentioned; and this, &c.; wherefore, &c.; if, &c.

Salvitur ad & 1st
dem.

AND the said defendant, by A. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him, he also craves oyer of the condition of the said writing-obligatory in the said declaration, and it is read to him in these words, to wit, [set forth the condition *verbatim*] which being read and heard, the said defendant says, *actio non*; because he says, the said J. W. in his lifetime did, on, &c. in the said condition of the said writing-obligatory in the said declaration mentioned, pay to the said plaintiff the said sum of money in the said condition mentioned, with lawful interest for the same, according to the form and effect of the said condition, to wit, at, &c.; and this, &c. wherefore, &c.: And for further plea in this behalf, he the said defendant by leave, &c. according, &c. says, that the said plaintiff, *actio non*; because he says, that he said J. W. in his lifetime did, after the said, &c. in the said condition of the said writing-obligatory mentioned, and before the exhibiting, &c. to wit, on, &c. pay to the said plaintiff the said principal sum of pounds, in the said condition mentioned, with all lawful interest then due for the same, according to the form of the statute in such case made and provided, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c.

Plea that he
paid the judg-
ment or da-
mages.

AND the said defendant, by A. B. his attorney, comes, &c. and says, *actio non*; because he says, that he the said defendant, after the said recovery of the said debt and damages, and before the exhibiting, &c. to wit, on, &c. paid to the said plaintiff the said debt and damages aforesaid, in form aforesaid recovered; and this &c.; wherefore, &c.; if, &c.

1 the said defendant, by, &c. comes, &c. and says, *actio* Plea to a debt
cause he says, that after the recovery of the judgment on recognizance.
1, against him the said defendant, at the suit of him the
ntiff, in form aforesaid had, and before the exhibiting, &c.
uit, &c. there was not any writ of *capias ad satisfaciendum*
on that judgment by the said plaintiff against him the said
it, sued and prosecuted out of this court here, and duly
l and filed of record in the court of, &c. now here, which
ig to the custom of the said court from time immemorial
l approved of in the same court here, ought to have been
fore any bill ought to have been exhibited against him the 2. Ld. Ray. 805.
ndant in any action of debt upon the said recognizance; 2. Salk. 439.
, &c.; wherefore, &c.; if, &c.

1 the said J. and W. by A. B. their attorney, come, &c. Plea of the death
, *actio non*; because they say, that the said C. in the said of one of the de-
nt mentioned, after the rendering of the said judg- fendants after
nd before the return of any writ of *capias ad satisfaciendum* judgment, and
ainst him, died, to wit, at, &c.; and this, &c. where- before any re-
c.; if, &c. turn of *ca. sa.* against him.

1 the said defendant, by A. his attorney, comes, &c. and Plea of *duress* to
at he the said defendant ought not to be charged with the a debt on bond.
t, by virtue of the said writing-obligatory; because he
at he the said defendant on, &c. at, &c. in, &c. was im-
l by the said plaintiff, and others by his collusion, and that
aid defendant was then and there kept and detained in pri-
til he the said defendant then and there through the force
dship of that imprisonment, and for his discharge therefrom
re said writing-obligatory; and this, &c.; wherefore he
dgment whether he ought to be charged with the said debt
re of the said writing-obligatory, &c.

the said plaintiff, by any thing by the said defendant above Replication to
ing alledged, says he ought not to be barred from having the last plea, *et in.*
ntaining his aforesaid action thereof against him; because he at large and vo-
at the said defendant, at the time of making the said writ- luntary.
igatory, was at large, and out of prison, and made and
d the said writing-obligatory to the said plaintiff of his the
endant's own accord and mere free will, and not by any
id hardship of imprisonment of the said defendant, as the
endant hath above in pleading alledged; and this he the
intiff prays, &c. and the said defendant doth the like, &c.

AND

Plea to debt on bond, conditioned for the performance of covenants, where the covenants mentioned are in the affirmative.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him in these words, that is to say : Know, &c. [copy the bond] he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, that is to say: The condition, &c. [copy the condition] he also craves oyer of the said articles of agreement in the said condition of the said writing-obligatory mentioned, and they are read to him in these words, that is to say, &c. [copy the agreement] which being read and heard, the said plaintiff says, *actio non*; because he says, that he the said defendant hath well and truly observed, performed, fulfilled, accomplished, paid, and kept all and singular the covenants, grants, articles, clauses, provisions, payments, conditions, and agreements in the said articles of agreement mentioned on the part of him the said defendant, or his assigns, to be observed, performed, &c. &c. according to the true intent and meaning of the said articles of agreement; and this, &c.; wherefore, &c.; if, &c.

If the covenants are in the negative or disjunctive, the defendant must plead specially to each covenant. See

Jacob's Law Dict. tit. Covenant, and 3. Instr. Cler. 257.

Plea in abatement to a debt on bond, that two were jointly bound, and only one named in the writ and declaration.

AND the said defendant, by A. B. his attorney, comes, &c. and prays judgment of the plaint aforesaid, and the declaration thereon founded, and pleads, that he together with one T. W. of, &c. on, &c. at, &c. became jointly bound to the said plaintiff, by the said writing-obligatory, in the said declaration mentioned, in the said sum of ten pounds, to be paid to the said plaintiff when they the said defendants should be thereto afterwards requested; and that the said T. W. as well as the said defendant, signed, sealed, and delivered the said writing-obligatory, sealed with the respective seals of the said defendant and the said T. W. and now brought here into court, the date whereof is the day and year in that behalf above-mentioned more fully appears: And the said defendant further says, that he did not bind himself to the said plaintiffs by the said writing-obligatory without the said T. W. but that they the said defendant and the said T. W. bound themselves jointly, and not severally, by the said writing-obligatory; and that the said T. W. is still living and in full life, to wit, at, &c. wherefore inasmuch as the said T. W. is not named in the said plaint, nor in the declaration founded thereon, he the said defendant prays judgment, and that the said plaint and the declaration thereon founded may be quashed, &c.

(a) Process in debt.

LONDON, to wit. Command T. W. late of, &c. that he justly and without delay render unto R. W. one hundred pounds

(a) See Practical Forms,

of

lawful, &c. which he the said T. W. owes to the said R. W. and unjustly detains from him, &c. as it is said, &c. and unjustly, &c.

Original returnable.
Capias returnable.

A. B. (attorney's name).

GEORGE the Third; by the grace of God, of, &c. to the sheriffs of London, greeting: We command you that you take the said R. W. late of, &c. if he may be found in your bailiwick, and safely keep, so that you may have his body before us, on, &c. hereafter we shall then be in England, to answer unto R. W. a plea that he render unto him the said R. W. one hundred pounds of lawful, &c. which he owes to and unjustly detains from him, as it is said, &c. and have you there this writ. Witness William lord Mansfield, at Westminster, the thirteenth day of, &c. in the twenty-eighth year of our reign.

(a) The Capias on the above process.

(a) See Practical Forms.

AND the said defendant, by A. B. his attorney, comes and demands the wrong and injury, when, &c. and says, *actio non*; because he says, that he the said defendant, after the recovery of the judgment aforesaid, in the said declaration mentioned, and before the suing forth of the original writ of the said plaintiffs thereupon against the said defendant, to wit, on, &c. at, &c. became a bankrupt within the true intent and meaning of the several statutes made, and then and now in force concerning bankrupts, or one or one of them: And the said defendant further says, that the cause of action accrued to the said plaintiffs before such time as he the said defendant became a bankrupt as aforesaid, to wit, at, &c. and of this he puts himself upon the country, &c.(a)

Bankruptcy pleaded in bar to a debt on judgment.

(a) According to 2. Wilson 139. this is bad, for not shewing conformity, but on demurrer for such cause in the case of Willen v. Gendam, the court in Trinity term, 22. Geo. 3. gave judgment for the defendant, and over-ruled the case in Wilson. See Doug. Alfop v. Price, 155.

AND the said defendant, by A. B. his attorney, comes and demands the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, in the said declaration mentioned, and it is read to him in these words, that is to say: Know all men, &c.; and also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, that is to say, &c. which being read and heard, the said defendant says, *non est factum*: And on further plea in this behalf, he the said defendant, by leave, &c. *actio non*; because he says, that the said C. L. (1) in her lifetime, and at the time of her death, was executrix of the last will and testament of the said T. F. in the said writing-obligatory in the said

Plea, to debt on bond to obligee named executrix of person, to whom debt was due, *non est factum*, and set off.

(1) the obligee in the bond.

(2) C. L. was named executrix of J. F. in the bond.

said declaration mentioned (2) ; and that the said writing-obligatory was made and given by him the said defendant to the said C. L. in her lifetime, as such executrix of the last will and testament of the said J. F. and for securing the payment of the said sum of one hundred pounds in the said condition thereof mentioned, and the said sum of one hundred pounds was due and owing from the said defendant to the said J. F. in his lifetime, and at the time of his death ; and at the time of the making of the said writing-obligatory remained and was still due and owing to the said C. L. as executrix as aforesaid, of the last will and testament of the said J. F. and not in her own right, or in any other capacity than as such executrix as aforesaid, and that the said writing-obligatory was given to the said C. L. as such executrix as aforesaid, for the benefit of the estate and effects of the said J. F. and that this present action is not brought by the said plaintiff for or on account of the proper estate and effects of the said C. L. but in trust, and for the benefit of the estate of the said J. F. ; and that there is truly and justly due and owing from the said defendant upon the said writing-obligatory, and the aforesaid condition thereof, a certain sum of money, to wit, the sum of one hundred pounds, no more, to wit, at, &c. ; but the said defendant in fact says, that the said J. F. in his lifetime, and at the time of his death, was indebted to the said defendant in a much larger sum of money than the money so due and owing from the said defendant upon the aforesaid writing-obligatory, and the aforesaid condition thereof, to wit, the sum of two hundred pounds of, &c. for, which said sum of money so due and owing from the said J. F. to the said William as aforesaid, hath not as yet been paid or satisfied to the said William, but is still due and owing to him, and is so due and owing, he the said William is ready and willing, hereby offers to set off and allow to the said Thomas so much money as is due to him upon the aforesaid writing-obligatory, and the condition thereof (*See stat.*) ; and this, &c. wherefore, if, &c. : And for further plea in this behalf, the said William like leave, &c. says, *actio non* ; because he says, that at the time of exhibiting the bill of the said plaintiff against him the said William there was and now is truly and justly due and owing from the said defendant to the said plaintiff, as such administrator as aforesaid, upon the said writing-obligatory, in the said declaration mentioned, and the aforesaid condition thereof, a certain sum of money, to wit, the sum of one hundred pounds, and no more, and that the said C. L. in her lifetime, and at the time of her death, was indebted to the said defendant in a much larger sum of money, than the money so due and owing from the said defendant to the said plaintiff upon the said writing-obligatory, and the aforesaid condition thereof, to wit, in the sum of two hundred pounds of, &c. for money by the said defendant before that time lent and advanced to the said C. L. and at her special instance and request and for other money laid out, &c. had and received, &c. [accused stated, &c.] ; which said sum of money so due and owing from

28. Geo. 3.

saïd C. L. to the saïd defendant as aforesaid, is still due and owing unto him the saïd defendant, and being so due and owing unto him the saïd defendant is ready and willing and hereby offers to set off and allow to the saïd plaintiff so much thereof as is really and justly due and owing to the saïd plaintiff, as such administrator as aforesaid, upon the aforesaid writing-obligatory and the condition thereof (*See stat.*); and this, &c.; wherefore, &c.; if, &c.

V. LAWES.

See the case of *Botts v. Mitchel*, 10. Mod. 315. *King v. Thorn*, Mich. Term, 27. Geo. 3. *Durnf. and East's Rep.* 487.

AND the saïd defendant, by A. B. his attorney, comes, &c. and says, that the saïd plaintiff ought not to have execution of the debt and damages aforesaid against him, because he says, that there is not any record of the recognizance in the saïd declaration mentioned, remaining in the saïd court of our saïd lord the king, &c.; and this, &c.; wherefore, &c. if the saïd plaintiff ought to have execution of the debt and damages aforesaid against him, &c.

J. MORGAN.

FIRST, not guilty: Second, and for further plea as to the saïd assaulting, &c. of the saïd plaintiff in the saïd declaration first-mentioned above supposed to have been done by the saïd defendant, he the saïd defendant by leave, &c. *actio non*; because he says that the saïd plaintiff at the saïd time when that trespass is above supposed to have been committed, to wit, at, &c. with force and arms, &c. made an assault on him the saïd defendant, and would then and there have beat, wounded, and ill-treated him, if he the saïd defendant had not then and there immediately defended himself against the saïd plaintiff, wherefore he the saïd defendant did then and there defend himself against the saïd plaintiff as he lawfully might for the cause aforesaid; and so the saïd defendant says, that if any mischief or damage then and there happened to the saïd plaintiff the same so happened unto him from the saïd assault of the saïd plaintiff, so by him made on the saïd defendant, and in defence of him the saïd defendant; and this, &c.; wherefore, &c. if, &c.

And the saïd plaintiff as to the plea of the saïd defendant by him secondly above pleaded in bar as to the saïd assaulting, &c. says, *precludi non*; because he says that the saïd defendant, at the saïd time when, &c. to wit, at, &c. of his own wrong, and without any such cause as is by him in his saïd second plea in that behalf alleged, made an assault on the saïd plaintiff, and then and there beat, &c. in manner and form as the saïd plaintiff hath above thereof complained against him; and this he the saïd plaintiff prays, &c. and the saïd defendant doth, &c. therefore, &c.

Plea, that the plaintiff executed to defendant a general release.

AND the said J. A. by A. B. his attorney, comes and the force and injury, when, &c. and saith, that the said Elizabeth ought not to have or maintain her said action against him because he says that the said Elizabeth, on, &c. at, &c. by a writing of release, sealed with the seal of the said Elizabeth shewn to the court here, bearing date the day and year aforesaid, remised, released, and did for ever quit claim, unto the said J. A. all and all manner of actions, cause and causes of actions, quarrels, controversies, trespasses, damages, and demands, ever which the said Elizabeth ever had against the said J. A. or by reason or means of any matter, cause, or thing which came from the beginning of the world until the day of the date of the said writing of release, without this, that the said J. A. is discharged of the premises above charged upon him in the said declaration any time after the making of the said writing of release, as the said Elizabeth hath above thereof complained against him; and &c.; wherefore, &c. if, &c.

Nil dicit in debt.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and says not in bar or preclusion of the said plaintiff, whereby the said plaintiff remains against the said defendant therein undefended; the court is considered that the said plaintiff do recover against the said defendant his said debt and his damages by him sustained by reason of the detaining of the said debt, to five pounds, adjudged by the court here to the said plaintiff with his assent, and the said defendant thereof is in mercy.

Replication (to a plea, that the obligee performed the condition of a bond) that he did not perform his duty during the time he was one of the officers of the palace court, but on the contrary having arrested one A. B. by virtue of a writ of *capias ad resp.* he made no return to the writ, nor brought in the body.

MEADOWS, KNIGHT-MARSHAL, } AND the said Sir
against } as to the said plea
ROYALL. } said defendant by him
pleaded in bar, says, (*precludi non*); because protesting said Thomas Royall hath not in any thing performed and condition of the said writing-obligatory: For replication behalf the said plaintiff says, that the said D. M. J. in condition of the said writing-obligatory mentioned, hath at time to time and at all times since the making of the said writing-obligatory and the condition thereof in the said plaintiff mentioned, during the time that he the said D. M. J. was one of the bearers of the virges of the household of our sovereign king, and one of the officers and ministers of the court of our lord the king of his palace of Westminster, and before the making the plaint of the said plaintiff in the court here, made no true return of all such writs, process, and warrants issued of the said court of our said lord the king of his palace of Westminster, as during that time were delivered to him the said D. M. J. to be executed by him, for that after the making the said writing-obligatory and the condition thereof, and before the lev.

plaint of the said plaintiff against the said defendant, to wit, at the court of the king's palace at Westminster, holden at Southwark, in the county of Surry, within the jurisdiction of the said court of our said lord the king, on Friday the fifteenth day of, &c. in the seventeenth year of the reign of, &c. before William earl of Talbot, steward of the king's household, the said plaintiff then and fill marshal of the said household, and L. B. esquire, steward of the said court, judges of the court aforesaid, by virtue of the letters patent of Charles the Second, late king of England, &c. bearing date at Westminster the fourth day of October, in the sixteenth year of his reign, one Francis Jackson came in his proper person, and then and there, according to the liberties and privileges of the said court, levied his plaint against one Thomas Mason in a plea of trespass on the case, to the damage of ninety-nine shillings, for a cause of action arising within the jurisdiction of the said court, and then and there found pledges of prosecuting his said plaint, to wit, J. D. and R. R.; and such proceedings were had upon the said plaint in the said court that afterwards, to wit, at the court of our said lord the king of his palace of Westminster, holden at Southwark aforesaid, within the county and jurisdiction aforesaid, before the said judges of the said court, on, &c. a certain writ of our said lord the king called a *capias*, issued out of the said court in the plea of the said plaint against the said T. M. at the prayer of the said F. J. by which said writ our said lord the king commanded the bearers of the virges of his household, the officers and ministers of the said court of his palace of Westminster, and every of them, that they or one of them should take the said T. M. if he should be found within the jurisdiction of the said court, and him safely keep, so that they or one of them might have his body before the judges of the said court at the next court of his palace of Westminster, on, &c. then next following, to be holden at Southwark, in the county of Surry, to answer the said F. J. in the plea aforesaid, and that they or one of them should have there then that writ, which said writ afterwards, and before the delivery thereof to the said D. M. J. to be executed as hereinafter is mentioned, there, to wit, at S. aforesaid, within the county and jurisdiction aforesaid, was duly indorsed for bail for two pounds and upwards, by virtue of an affidavit of the cause of action of the said F. J. in that behalf, before then duly made and filed in the said court, according to the form of the statute in such case made and provided, which said writ, so indorsed for bail as aforesaid, afterwards, and before the return thereof, to wit, on, &c. within the county and jurisdiction aforesaid was delivered to the said D. M. J. then, until, and at and after the day when the said writ was returnable, being one of the bearers of the virges of the household of our said lord the king, and an officer and minister of the court aforesaid, to be by him executed in due form of law, by virtue of which said writ he the said D. M. J. so being one of the bearers of the virges of the household of our said lord the king, and an officer and minister of the court aforesaid, afterwards, and

REPLICATION to DEBT on BOND,

3d Breach.

before the time appointed by the said writ for the return thereof, to wit, on, &c. at, &c. took and arrested the said T. M. by his body, and then and there had him in his the said D. M. J.'s custody by virtue of the said writ at the suit of the said F. J. in the plea aforesaid: And the said plaintiff further says, that the next court of our lord the king of his palace of Westminster, held next after the issuing of the said writ against the said T. M. at the suit of the said F. J. was held at S. aforesaid, in, &c. on, &c. before the said William earl of Talbot, steward of the king's household, the said plaintiff, knight, marshal of the said household, and L. B. esquire, steward of the said court, then judges of the court aforesaid, but that the said D. M. J. so being one of the bearers of, &c. and an officer, &c. as aforesaid, did not then and there at the said court so holden as last aforesaid, return the aforesaid writ, so delivered to him to be executed as aforesaid, executed, or make any return whatsoever to or of the aforesaid writ, nor had the body of the said T. M. in the said writ named, before the said court so holden as last aforesaid, as by the exigency of the said writ he the said D. M. J. was demanded and required, and ought to have done, but therein wholly failed and made default, contrary to the tenor and effect of the said condition of the said writing-obligatory, to wit, at S. aforesaid, in the county and jurisdiction aforesaid: And the said sir Sidney, according to the form of the statute in such case made and provided, further says, that the said D. M. J. in the said condition of the said writing-obligatory mentioned, hath not from time to time since the making of the aforesaid writing-obligatory and the condition thereof in the said plea mentioned, during the time that he the said D. M. J. was one of the bearers of, &c. and one of the officers and ministers of the court of our lord the now king of his palace of Westminster, and before the levying the plaint of the said sir Sidney in this court here, saved and kept harmless the said sir Sidney from all damage, loss, and danger which during the time aforesaid hath happened to him the said plaintiff by reason of the not executing and due executing of all such writs, process, and warrants issued out of the said court of our said lord the king of his palace of Westminster, as during that time were delivered to him the said D. M. J. to be executed by him, for that reason, by such his the aforesaid D. M. J.'s neglect and default in not returning the aforesaid writ at the suit of the said F. J. against the aforesaid T. M. delivered to him the said D. M. J. to be executed as aforesaid, as by the exigency of the said writ he was commanded and required to do, and ought to have done, he the said plaintiff was and is damnified and hath sustained damage and loss by reason of such neglect to a certain amount, to wit, to the amount of two shillings and fourpence, which at and upon the aforesaid writ would have become due and payable to him the aforesaid sir Sidney, as, and for a fee due, and of right payable to him the said sir Sidney as marshal of the said household of our said lord the now king, at and upon the return of such writ, contrary to the tenor and effect of the said condition of the
said

said writing-obligatory, to wit, at, &c. in, &c.: And the ^{3d Breach.} said plaintiff, according, &c. further says, that the said D. M. J. in the said condition of the said writing-obligatory mentioned, hath not from time to time, and at all times since the making of the said writing-obligatory and the condition thereof in the said plea mentioned, during the time that he the said D. M. J. was one of the bearers of, &c. and one of the officers, &c. and before the levying the plaint of the said plaintiff in this court here, observed, performed, and executed all matters and things, which according to his the said D. M. J.'s duty and office of one of the bearers of, &c. and an officer, &c. he ought to have observed, &c. without fraud, oppression, and wrong to any person or persons whatsoever, for that after the delivery of the aforefaid writ at the suit of the said F. J. against the aforefaid T. M. to the said D. M. J. to be executed as aforefaid; and after the said D. M. J. had so taken and arrested the said T. M. by his body, and had him in custody by virtue of the said writ as aforefaid, and before the return of the said writ, to wit, on, &c. to wit, at, &c. he the said T. M. for his release from and out of the custody of him the said D. M. J. paid to the said D. M. J. a certain sum of money, to wit the sum of two pounds thirteen shillings and sixpence, that is to say, for the damages and costs in the said action against him the said T. M. by and at the suit of the said F. J. for the use of the said F. J. which he the said D. M. J. then and there accepted and received of and from the said T. M. for the purpose aforefaid; yet the said D. M. J. did not then, nor at the said court next after the suing out the aforefaid writ of the said F. J. against the said T. M. so holden as last aforefaid, or at any other time pay, nor hath he at any time since hitherto paid the said two pounds thirteen shillings and sixpence, or any part thereof, into this court here, but fraudulently, oppressively, and wrongfully kept and detained, and from thence hitherto hath kept and detained, and still doth keep and detain the same in the hands of him the said D. M. J. from the said F. J. contrary to the duty of the office of him the said D. M. J. as such officer of the court here, to the fraud, oppression, and wrong of the said F. J. so being the plaintiff in the suit aforefaid, to wit, at, &c.; by means of which said several premises, the said F. J. a suitor in this court here and plaintiff in the action aforefaid, was and is greatly injured and prejudiced by the said D. M. J. and by the fraud and oppression of the said D. M. J. he so then being an officer and minister of this court as aforefaid, contrary to the tenor and effect of the said condition of the said writing-obligatory, to wit, at, &c.; and this he the said plaintiff is ready to verify; wherefore he prays judgment and his debt aforefaid, together with his damages by him sustained on occasion of the detention thereof to be adjudged to him, &c.

Q^u. If error were brought on a judgment obtained by the plaintiff in this court, and it should appear upon the record that the plaintiff was himself one of the judges, it would not be reversed for that cause: Yet it is the constant practice, as I understand,

REPLICATION TO PLEA TO DEBT ON BOND, &c.

derstand, in actions in the marshalsea court upon bail bonds, to bring them in the name of the knight, although assigned to the plaintiff in the suit where the bail was taken.

J. MORGAN.

The above replication was in an action where the officer had been turned out of

his office prior to the commencement of this suit: But in an action at the suit of the knight marshal, where the officer's sureties became fixed in the common and regular way, the officer not being turned out of his office, the replication, after shewing the arrest under the writ as in the foregoing, is as follows:

And such proceedings were afterwards had in the said plea in the said court of the king's palace of Westminster, holden at S. aforesaid, in the county and jurisdiction aforesaid, before the said William earl of Talbot, the said plaintiff, and L. B. esquire judges of the said court, on, &c. a complaint of the said A. B. made against him the said C. D. he the said C. D. being one of the bearers of the virges of the household of our said lord the king and an officer and minister of the said court, for misbehaviour and a breach of duty in his said office, in taking and detaining by extortion from the said A. B. the sum of pounds, it was by rule of the said court then and there, in and by that court duly made in the said suit, ordered, that the said C. D. upon notice of the said rule, should attend at the then next court to answer such matters and things as should then be objected to him on behalf of the said A. B. of which said rule so then and there made as aforesaid, the said C. D. afterwards, and before the then next court, to wit, on, &c. at, &c. had notice: And the said plaintiff further says, that such further proceedings were afterwards had in the said court of the king's palace of Westminster aforesaid, in the said plea, that afterwards, at the court of the king's palace of Westminster, holden at, &c. on, &c. before the said Judges of the said court, on hearing of the said complaint of the said A. B. and the defence of the said C. D. then and there made thereto, it was by another rule of the said court then and there duly made in and by the same court in the said plea or suit ordered, that the said C. D. (he the said C. D. then being one of the bearers of, &c. and an officer, &c.) should be suspended from the execution of his said office, and shew cause at the then next court why he should not repay to the said A. B. the said sum of pounds, and the said A. B.'s costs in the said suit, and the costs of that complaint, which said rule last-mentioned, the said C. D. afterwards, and before the then next court, to wit, on, &c. had notice: And the said plaintiff further says, that such further proceedings were afterwards had in the said court of the king's palace of Westminster held at S. aforesaid, within the county and jurisdiction aforesaid, &c. on the default of the said C. D.; it was by another rule of the said court then and there duly made in and by the said court in the same plea or suit ordered, that the rule made at the said court against the said C. D. he the said C. D. being then one of, &c. and an officer, &c. should be absolute; of which rule aforesaid the said C. D. afterwards, to wit, on, &c. had notice.

And the said plaintiff further says, that the said sum of pounds, and the said A. B.'s costs in that suit, and the costs of that complaint, then and there amounted to a large sum of money, to wit, the sum of pounds, to wit, at, &c.; whereof the said C. D. then and there also had notice, and was then and there requested by the said A. B. to pay him the same; yet the said C. D. did not before the then next court, or at any other time whatsoever, pay the said A. B. the said sum of pounds, and his costs in the said suit, together with the costs of that complaint, or any part thereof, but hath hitherto neglected to pay the same, or any part thereof, to the said A. B.; and this, &c. &c. [Conclusion as in the last precedent.]

<p>ARMSTRONG at suit of WILKES, ESQUIRE, AND ANOTHER.</p>	}	<p>[AFTER oyer of the bond upon which the action was brought, and condition], he also craves oyer of the said indenture of covenants in the said condition of the said writing-obligatory mentioned, and it is read to him in these words, to wit, "This indenture, &c." [setting it out verbatim], which being read and heard, the said James says <i>actio non</i>; because he says, that he the said J. A. did not at any time before the making of the said indenture of covenant, or at any time or times for and during all the time that the said J. W. and F. B. continued sheriff of the said county of Middlesex, set at liberty or suffer to go at large and escape any person or persons whatsoever arrested or attached by the said J. A. alone, or together with or by any bailiff or officer, by his or their, or any of their body or bodies, by virtue of any writ, warrant, precept, or mandate whatsoever of the said sheriff, or which at the time of the making of the said indenture of covenants, or at any time thereafter, were in or committed to the charge or custody of him the said J. A. alone or together, with or by any other bailiff or officer a prisoner, or of or to the said sheriff, for any cause or causes whatsoever, until the said J. A. had a sufficient warrant for the discharging of such prisoner or prisoners under the hand-writing of the said sheriff, under-sheriff, deputy, or clerk in that behalf authorised; and that the said J. A. did not at any time after the making of the said indenture of covenants, deliver or suffer any goods and chattels to be purloined or taken out of his possession, which were seized or taken in execution or otherwise howsoever by the said J. A. alone or together with any other bailiff or officer of the said sheriff, or which were delivered or left in the hands or custody of him the said J. A. by the said sheriff or under-sheriff, their deputies or clerks, until the said J. A. had a lawful and sufficient warrant for the delivery of the same under the hand-writing of the said sheriff, under-sheriff, or deputy, but did make and cause to be made a just and perfect inventory of all such goods by him the said J. A. so seized, or which came to his hands within the space of twenty-four hours after the same were seized or came to the hands of the</p>	<p>Plea, (by a sheriff's officer to an action brought against him by the sheriffs on the bond given for good behaviour, &c.) performance of conditions and covenants.</p>
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saïd J. A. and did cause the same to be appraised by two appraisers, one of them appointed by the saïd sheriff, and did as soon as conveniently might be after such appraisement made, deliver a true copy thereof, signed by the saïd J. A. to the saïd sheriff, under-sheriff, deputies, or clerks, or some or one of them; and likewise did, when and as often as any goods or chattels by him the saïd J. A. so seized or taken, were sold, (if the money for which such goods were sold came to the hands and custody or possession of the saïd J. A.), forthwith pay, or cause to be paid to the saïd under-sheriff, his deputy, or clerks, or some, or one of them, all such sum or sums of money for which the same were sold: And the saïd J. A. further says, that he the saïd J. A. did not remove any goods and chattels which at any time or times during the continuance of the saïd sheriffalty he seized or took in execution within the saïd county of Middlesex, from the place where such goods or chattels were so seized or taken in execution before such time as the rent (if any due) was paid to the landlord or landlords of the premises whereon any such goods or chattels had been seized or taken in execution: And the saïd J. A. further says, that he the saïd J. A. neither by himself, or any other bailiff, or other person, did do, commit, or suffer any act or thing which was or tended to the hurt, loss, damage, or hindrance of the saïd sheriff, or under-sheriff, or any of them: And the saïd J. A. further says, that he the saïd J. A. did not at any time after the making of the saïd indenture of covenant, seize or take in execution the goods of, or attach, or arrest the body of any ambassador, or foreign minister, or the servant of any ambassador or foreign minister, or of any person whatsoever, privileged or protected, without licence in that behalf first had and obtained under the hand-writing of any such person or persons, which for the time being had good authority to grant licence in that behalf: And the saïd J. A. further says, that he the saïd J. A. did not at any time after the making of the saïd indenture of covenants, by virtue of any warrant whatsoever upon mesne process, arrest or attach any person whatsoever against whom the saïd J. A. did know any outlawry after judgment, *capias ad satisfaciendum*, or other execution whatsoever, to be in the hands or custody of him the saïd J. A. or any person whatsoever, but before such arrest did make the saïd J. R. or some of his clerks acquainted with the saïd outlawry and execution, and did cause the party so arrested to be charged with the same by execution or outlawry, before he was discharged of the same arrest upon mesne process as aforesaid: And the saïd J. A. further says, that he the saïd J. A. W. M. J. J. T. F. and M. H. and each of them hath well and truly performed and fulfilled (a) *all and singular other the covenants, grants, articles,*

(a) This part of the plea is meant to apply to such covenants in the indenture as are in the affirmative, and in this case where the bond was conditioned generally for the performance of the covenants contained in such indenture, this general way of pleading to the affirmative cove-

nants is allowable; but where the covenants are in the condition there, whether they be in the affirmative or not, the defendant must plead specially to each part, for in pleading performance of a condition it must be done in the words of 3. Lev. 303. Kel. 956. 1. Sid. 215.

clauses,

s, provisos, payments, conditions, and agreements whatsoever in the said indenture of covenants mentioned in their or either of their parts and behalfs to be performed and fulfilled, according to the form and condition of the said writing-obligatory, and of the said indenture of covenants, to wit, at, &c. ; and this, &c. ; where- &c. if, &c.

And the said Sampson, by C. D. his attorney, comes and declares the wrong and injury, when, &c. and praysoyer of the said writing-obligatory, and it is read to him in these words, to wit: "Now all men, &c." He also praysoyer of the condition of the said writing-obligatory, and it is read to him in these words: "The condition of this obligation, &c. &c." (the condition was, That Thomas Munn, as co-obligor in the bond, should perform the covenants in a charter-party of the same date, with the bond between the plaintiffs of the one part, and the said Munn of the other part, concerning the ship Burnham Farmer, then lying at Bridgewater), which being read and heard, the said Sampson saith, that he said Joseph and Henry (*aditio non*) ; because he saith, that the said charter-party in the said condition mentioned was made on the said sixth day of October, in the year 1740 aforesaid, at, &c. between the said Joseph and Henry (by the names of John Card, of, &c. and Henry Simmons, of, &c. owners of the good ship or vessel called the Burnham Farmer, burthen about fifty tons, then lying at anchor in the port or harbour of Bridgewater, in the county of Somerset of the one part, and the said Thomas Munn (by the name of Thomas Munn, of, &c. in the county aforesaid, merchant) of the other part, and by the same charter-party the said Joseph and Henry did grant and to freight-let unto the said Thomas Munn the said ship or vessel, and the said Thomas Munn did accordingly hire the same for the voyage thereafter mentioned; wherefore the said Joseph and Henry did thereby for themselves, their executors and administrators, covenant and agree to and with the said Thomas Munn, his executors and assigns, that the said ship should be made ready, and be fitted and provided in all respects for such a ship and voyage, and should receive and take on board her all such lawful goods and merchandizes as the said Thomas Munn should load aboard her outwards, and with the first fair wind should sail directly to Dunkirk in France, and within six days after her arrival or sooner, should not only unload and lawfully discharge her said goods and merchandizes, and outward loadings, but there also receive and load, and take on board her all such lawful goods and merchandizes as he the said Thomas Munn should or tender to be loaden on board the said ship, as much as she could stow and carry in her over and above her victuals, tackle, apparel, and being so loaden and dispatched, she should depart thence with the first fair wind to Lynn Regis in Norfolk, and in nine days after her arrival there, or sooner, should unload and make a right discharge of all her said goods and loadings from

(a) Plea (oyer of bond and condition, which was, that A. B. a co-obligor in the bond, should perform the covenants in a charter-party, between plaintiffs of the one part and A. B. of the other, concerning a ship which was let to hire by the plaintiffs to A. B. and which he was to freight to France, and from thence back to England, and when unloaded to proceed back to England, and when freighted to return to England ; but in case a French war was declared, the agreement was to be void on the first voyage), that after the making the bond and charter-party, the ship sailed for France, unloaded her cargo, and sailed for England, but that she never arrived, &c. &c.

(a) See Plea to Debt on Charterparty.—Index.

Dunkirk

Dunkirk aforesaid, and being so discharged at Lynn Regis aforesaid, she should depart thence and return back again with the first fair wind to Dunkirk, and within six days after her second arrival at Dunkirk, or sooner, should there re-load and take on board all such lawful goods and merchandizes as the said Thomas Munn should load or tender to be loaden on board the said ship in manner (as before) and being so loaden and dispatched, she should depart then with the first fair wind for the port of Bristol in England and within five working days after her arrival there, should make a right discharge and delivery of all her said homeward loading, at there end and finish her said intended voyage; (wind and weather the dangers of the sea, and the restraints of princes and rulers always excepted) but if a French war should be proclaimed, waged and confirmed with England before the arrival of the said ship at Dunkirk the second time before mentioned, then instead of her going and sailing to Dunkirk, the said ship should sail or be disposed of whether and in such manner as the said Joseph and Henry should think proper and direct, and the said voyage should be at an end at Lynn aforesaid; and the said Thomas Munn, for himself, his executors and administrators, did thereby covenant, promise, and agree to and with the said Joseph and Henry respectively, and their several executors, administrators and assigns, that he the said Thomas Munn, his executors or administrators, should and would well and truly pay, or cause to be paid unto the said Joseph and Henry, their executors, administrators, and assigns, or some or one of them, within ten days next after the arrival of the said ship at Lynn Regis aforesaid, and before her discharge, then the full sum of thirty-five pounds of lawful money of Great Britain and the further sum of thirty-five pounds of like lawful money within ten days next after her arrival at the port of Bristol aforesaid, in full of all freight to be due and payable for the hire of the said ship for the voyage aforesaid, and also would and should pay and discharge all the port charges in and out of the harbour and haven of Dunkirk aforesaid, which are all and singular the covenants, grants, articles, clauses, provisoes, payments, conditions, and agreements whatsoever comprized or mentioned in the said charter-party, on the part and behalf of the said Thomas Munn, his executors, administrators, and assigns, to be observed, performed, fulfilled, accomplished, paid, and kept, according to the true intent and meaning of the same charter-party: And the said Sampson further saith, that soon after the making of the said writing-obligatory and the charter-party aforesaid, to wit, on, &c. at the port of Bridgewater aforesaid, in the said county, the said ship did receive and take on board her all such lawful goods and merchandizes as the said Thomas Munn loaded on board her outwards, and with the then first fair wind sailed from thence directly for Dunkirk in France, and upon her said voyage in the said charter-party mentioned, and within six days after her arrival there, unloaded and lawfully discharged there all her said goods and outward loadings; and the said ship afterwards, to wit, on, &c. departed

and sailed from Dunkirk aforesaid, in her said voyage, according to the covenant of the said Joseph and Henry in the said charter-party above mentioned: But the said Sampson further pleads, that the said ship never did arrive at Lynnh Regis in Norfolk in the said charter-party mentioned in her said voyage, nor ever arrived at Dunkirk aforesaid a second time in her said voyage, nor arrived at the port of Bristol in England in the said charter-party mentioned in the said voyage: And the said Sampson further pleads, that after the arrival of the said ship at D. aforesaid, in the said voyage from the port of B. aforesaid, as is above-mentioned; to wit, on, &c. the said Thomas Munn paid and discharged the port charges in and out of the harbour and haven of Dunkirk aforesaid, according to the form and effect of the said charter-party, and the condition aforesaid, to wit, at, &c.; and this the said Sampson is ready to verify, wherefore he prays judgment aforesaid Henry and Joseph ought to have their aforesaid action against him, &c.

And the said Joseph and Henry say, that by reason of any thing pleaded by the said Sampson, they ought not to be barred from having their said action against him; because protesting that the said plea of the said Sampson, and the matters therein contained, in manner and form as the same is above pleaded, and the matters therein contained, are insufficient in law to bar the said Joseph and Henry from having their said action against him; for replication nevertheless they the said Joseph and Henry say, that true it is, soon after the making the said writing-obligatory and the charter-party aforesaid, to wit, on, &c. at, &c. in, &c. the said ship did receive and take on board her all such lawful goods and merchandizes as the said Thomas Munn loaded on board her outwards, and with the then first fair wind sailed from thence directly to Dunkirk in France, in and upon her said voyage in the said charter-party mentioned, and within six days after her arrival there landed and lawfully discharged there all her said goods and out-ladings; and the said ship afterwards, to wit, on, &c. departed and sailed from Dunkirk aforesaid in the said voyage, according to the covenant of the said Joseph and Henry in the said charter-party above-mentioned; and that the said ship never did arrive at Lynnh Regis in Norfolk, in the said charter-party mentioned, in the said voyage, nor ever arrived at D. aforesaid a second time in the said voyage, nor ever arrived at the port of B. in England in the said charter-party mentioned in the said voyage, as the said Sampson hath by his said plea alledged; nevertheless the said Joseph and Henry for replication say, that the said Thomas Munn, soon after the making the said writing-obligatory and the charter aforesaid, to wit, on, &c. at, &c. did take and receive from them the said Joseph and Henry the said ship or vessel at the said hire or price in the said charter-party mentioned, for the said voyage in the said charter-party mentioned to be performed therewith, according to the form and effect of the said charter-party; and that after

Replication to the last plea, admitting that the ship sailed for France, and never returned. For replication plaintiffs say, that A. B. put unlawful goods on board, without the consent of plaintiffs, whereby the ship was seized and became forfeited.

REPLICATION—REJOINDER.

after the said Thomas Munn had so taken and received the same, and whilst the said ship was in her said voyage at Dunkirk aforesaid, as in the said plea is mentioned, he the said Thomas Munn, without the knowledge or privity of the said Joseph and Henry, did unlawfully cause to be put on board the said ship at Dunkirk aforesaid a certain quantity of tobacco stems to be imported in the said ship from thence to England, contrary to the form of the statute in such case lately made and provided, which said tobacco stems so put on board the said ship as aforesaid were on board her without the knowledge or privity of the said Joseph and Henry, at her said departure from Dunkirk aforesaid in her said voyage, and the said ship, soon after her said departure from Dunkirk aforesaid with the said tobacco stems so on board her as aforesaid, and the said Joseph and Henry not knowing that the said tobacco stems were on board her, to wit, in, &c. was driven and sailed in her said voyage into the harbour of Wisbeach, in the Isle of Ely, in the county of Cambridge, and became forfeited by force of the said statute, and was then and there seized and detained as forfeited, according to the force of the statute aforesaid, by reason of her having the said tobacco stems on board her, by means whereof the said ship did not, nor could further proceed in her said voyage, according to the form and effect of the said charter-party; and this they are ready to verify; wherefore they pray judgment and their said debt, together with their damages by reason of the detaining thereof to be adjudged to him, &c.

Rejoinder to the last replication, that the goods were put on board with the consent of plaintiffs.

And the said Sampson saith, that the said Thomas Munn, by the order and direction, and with the privity and consent of the said Joseph and Henry, to wit, on, &c. while the said ship was in her said voyage at D. aforesaid, caused the said tobacco stems to be put on board the said ship at Dunkirk aforesaid, to be imported in the said ship from thence for England; and the said tobacco stems, at the time of the departure of the said ship from Dunkirk aforesaid in her said voyage, were on board the said ship with the knowledge, privity, and assent of the said Joseph and Henry; without this, that the said Thomas Munn caused the said tobacco stems to be put on board the said ship to be imported in the said ship from thence to England, without the knowledge or privity of the said Joseph and Henry, as is in the said replication above alleged; and this the said Sampson is ready to verify, wherefore as before he prays judgment, and that the said Joseph and Henry may be barred from having their said action against him, &c.

Plea, non est factum to the bonds; and as to the sums mentioned in the last Counts in the declaration, he saith he doth not owe.

And the said Richard, by J. K. his attorney, comes and defends the wrong and injury, when, &c. and says, that he ought not to be charged with the said debt, by means of the said several writings-obligatory in the said declaration mentioned; because he says, that the said several writings-obligatory are not, nor is either of them his deed; and of this he puts himself upon the country; and

and the said Thomas doth so likewise: And the said Richard saith, that he doth not owe to the said Thomas the said several sums of twenty-three pounds in the third and last count of the said declaration mentioned, or any part thereof, in manner and form as the said Thomas hath above thereof complained against him; and of this he puts himself upon the country; and the said Thomas doth so likewise; therefore, &c.

And the said mayor and free burgesses, by C. D. their attorney, Plea (oyer of come and defend the wrong and injury, when, &c. and pray oyer bond and condition, which of the said writing-obligatory, and it is read to them, &c. they also was for the payment of a sum of money with interest) *non est factum*; 2d, that they did pay; 3d, the same. pray oyer of the condition of the said writing obligatory, and it is read to them in these words, to wit: "The condition of the above obligation is such, that if the above bounden mayor or free burgesses, or their successors, do and should well and truly pay, or cause to be paid unto the above-named J. W. his executors, administrators, or assigns, the sum of fifty-five pounds of lawful, &c. with interest after the rate of four pounds for each one hundred pounds yearly, at or upon the fifth day of August next, then the above written obligation shall be void, otherwise remain in full force and virtue; which being read and heard, the said mayor and free burgesses say, 1st, *non est factum*; and issue thereon: And for further plea by leave, &c. *actio non*; because they say, that the said mayor and free burgesses paid unto the said J. W. the said sum of fifty-five pounds in the said condition mentioned, together with lawful interest for the same, according to the form and effect of the said condition, to wit, at, &c.; and this, &c.; wherefore, &c.: And for further plea, by leave, &c. *actio non*; because they say, that they the said mayor and free burgesses, after the time mentioned in the said condition for the payment of the said fifty-five pounds, and before the suing out the original writ of the said William Augustus, to wit, on, &c. at, &c. paid to the said J. W. the said sum of fifty-five pounds in the said condition mentioned, according to the form of the statute in that case lately made and provided, together with all the interest for the same, to wit, the sum of twenty-four pounds; and this, &c.; wherefore, &c.

Vide a plea of payment after the day by an executor, 3. Will. 52. 54. and Replication thereto.

And the said William Augustus, as to the said plea of the said mayor and free burgesses by them secondly above pleaded in bar, Replication, that they did not pay. says, *precludi non*; because he says, that the said mayor and free burgesses did not pay unto the said J. W. the said sum of fifty-five pounds in the said condition mentioned, together with interest for the same, according to the form and effect of the said condition, in manner and form as the said mayor and free burgesses have above in their said last-mentioned plea alledged; and this he the said William Augustus prays may be enquired of by the country; and the said W. A. as to the said plea of the said mayor and free bur-

burgesses by them lastly above pleaded in bar, (*precludi non*); because he says, that the said mayor and free burgesses did not pay to the said J. W. the said sum of fifty-five pounds in the said condition mentioned, according to the form of the statute in such case lately made and provided, together with all interest due for the same, in manner and form, &c. &c. [as in the replication to the second plea.]

Plea 1st, *non est factum*; 2d, that after the making of the bond, a commission of bankruptcy was taken out against plaintiff, and that the money is due to plaintiff's assignees.

And the said defendant, by J. A. his attorney, comes and defends the wrong and injury, when, &c. and says that the said writing-obligatory in the said declaration mentioned, is not his deed, and of this he puts himself upon the country; and the said plaintiff doth the like: And for further plea in this behalf, the said defendant, by leave of the court here to him for this purpose granted, according to the form of the statute in such case made and provided, saith, that the said plaintiff ought not further to maintain his aforesaid action thereof against him; because he says that the said plaintiff being a subject of this kingdom, on, &c. and for a long time, to wit, for the space of one whole year, and afterwards was a merchant, and during all that time did use and exercise the trade of merchandize by way of bargaining, exchanging, bartering, and chevance, and did seek his trade of living by buying and selling, to wit, at, &c.; and the said plaintiff so using and exercising his trade of merchandize, and seeking his trade of living as aforesaid, he the said plaintiff, on, &c. became and was indebted unto J. F. and J. S. (the petitioning creditors) being subjects of this kingdom, in the sum of one hundred pounds of lawful money of Great Britain and upwards, for a true and just debt due and owing from the said plaintiff to the said J. F. and J. S.; and the said plaintiff was also indebted to divers other persons in divers other large sums of money; and the said plaintiff being so indebted as aforesaid, and so using and exercising the trade of merchandize, and seeking his trade of living, afterwards, and after the making the said writing-obligatory, to wit, on, &c. the aforesaid debt to the said J. F. and J. S. and the said other debts being still due, and in no wise paid or satisfied, he the said plaintiff became a bankrupt within the true intent and meaning of the several statutes made concerning bankrupts; and that the said plaintiff, so being and continuing a bankrupt as aforesaid, and the said defendant remaining unpaid and unsatisfied afterwards, to wit, on, &c. at the petition of the said J. F. and J. S. as well for themselves as for all other the creditors of the said plaintiff, made an exhibited in writing according to the form of the statute in such case made and provided, to the right honourable Edward Lord Thurlow, Baron of Ashfield, in the county of Suffolk, then and still being lord high chancellor of Great Britain; a certain commission of our lord the now king, sealed with the seal of Great Britain, in due manner issued out of his majesty's high court of chancery (the said court then and still being held at Westminster

in the county of Middlesex) against the said plaintiff, directed to A. B. &c. &c. &c. by which said commission our lord the king did name, assign, and appoint, constitute, and ordain them the said A. B. &c. &c. &c. his special commissioners there, giving them full power and authority to the said commissioners, any four or three of them, to proceed according to the statutes in the said commission specified, and all other statutes in force concerning bankrupts, not only concerning the said bankrupt, his body, lands, tenements, freehold and customary goods, debts, and other things whatsoever, but also concerning all other persons who by concealment, claim, or otherwise, did or should offend touching the premises in the said commission specified, or any part thereof, contrary to the true intent and meaning of the same statutes, to do and execute all and every thing and things whatsoever, as well towards satisfaction and payment of the said creditors as of the plaintiff, the bankrupt aforesaid, as towards and for all other intents and purposes, according to ordinances and provisos of the said statutes, the said lord the king, by the said commission, commanded the said A. B. &c. &c. or any four or three of them, to proceed to the execution and accomplishment of the said commission, according to the true intent and meaning of the statutes, with all diligence and effect, as by the said commission more fully appears, which said commission is still in full force and effect, by virtue of which said commission, and by force of the several statutes, the said A. B. &c. &c. three of the said commissioners named in the said commission, afterwards, to wit, on, &c. in due form of law did adjudge and declare that the said plaintiff, before the date and bearing forth of the said commission against him, became and was a bankrupt within the true intent and meaning of the several statutes then in force concerning bankrupts, some or one of them, and adjudge and declared him a bankrupt accordingly, to wit, at, &c. : and the said defendant further says, that afterwards and before the exhibiting the bill of the said plaintiff, to wit, on, &c. the said defendant remaining and continuing a bankrupt, the said A. B. &c. &c. three of the said commissioners named in the said commission by certain indentures then and there made between the said A. B. &c. &c. of the one part, and T. B. of, &c. R. F. of, &c. and W. W. of, &c. of the other part, then and there being creditors of the said plaintiff, and sealed with the seals of the said A. B. &c. &c. bargained, sold, assigned, transferred to the said T. B. R. F. and W. W. amongst other things, the said sum of money and cause of action in the said declaration mentioned, upon trust nevertheless to and for the use and benefit of the said T. B. R. F. and W. W. and all other the creditors of the said plaintiff who then had demanded, or who afterwards should in due time come and demand relief by virtue of the said commission, and should contribute towards the expence of the same, according to the limitation of the aforesaid statute, by reason of which said premises, and by force of the statutes in that case made and provided, the said

said T. B. R. F. and W. W. then and there became and were; and still are entitled to the said debt, sum of money, or cause of action in the said declaration mentioned; and this he is ready to verify; wherefore, &c. if, &c.

Replication, admitting that plaintiff became a bankrupt, and that he assigned over the bond to a creditor, and that the action is brought in the name of plaintiff, to recover the money for the use of the creditor.

And the said plaintiff, as to the said plea of the said defendant by him lastly above pleaded in bar, saith, that he, by reason of any thing by the said defendant in that plea above alledged, ought not to be barred from further maintaining his aforesaid action thereof against him; because he saith, that after the making of the said writing-obligatory in the said declaration mentioned, to wit, on, &c. at, &c. he the said plaintiff, before he became a bankrupt, for a good and valuable consideration him thereunto moving, assigned, transferred, and set over the said writing-obligatory, and all his right, interest, and property therein to one W. F. and then and there delivered the said writing obligatory to the said W. F. whereof the said defendant afterwards, to wit, on, &c. had notice; and by means thereof, he the said W. F. then and there became, and was and from thence hitherto hath been, and still is entitled to the said debt or sum of four hundred pounds above demanded, to wit, at, &c.: And the said plaintiff in fact saith, that this action is brought by and in the name of him the said plaintiff, in order to recover the said debt or sum of four hundred pounds above demanded, for the use and benefit of the said W. F. and at his request, and that the said plaintiff is named therein as a trustee for the purpose aforesaid, and not otherwise, to wit, at, &c.; and this, &c.; wherefore he prays judgment and his said debt, together with his damages by him sustained on occasion of the detention thereof to be adjudged to him, &c.

Vide *Winch v. Keely*, Durnf. and East, Rep. 619.—Authority in support of this replication.

Drawn by MR. TIDD.

Demurrer.

And the said defendant, as to the said plea of the said plaintiff above pleaded, in reply to the plea of the said plaintiff by him lastly above pleaded in bar, saith, that the said replication, and the matters therein contained, are not sufficient in law for the said plaintiff to have and maintain his aforesaid action against the said defendant; to which said replication in manner as the same is above pleaded, the said defendant is not under any necessity, nor obliged by the law of the land to answer; and this he is ready to verify; wherefore for want of a sufficient replication in this behalf, the said defendant prays judgment, and that the said plaintiff may be barred from having and maintaining his aforesaid action thereof against him, &c.

This demurrer was withdrawn, and an issue taken on the replication, which upon trial was found for the defendant.

And the said plaintiff says, that the said plea of the said plaintiff Joinder in de-
 above pleaded, in reply to the said plea of the said defendant by him murrer.
 lastly above pleaded in bar, and the matters therein contained, are
 sufficient in law for the said plaintiff to have and maintain his
 aforesaid action against the said defendant, which said replication,
 and the matters therein contained, the said plaintiff is ready to
 verify and prove as the court shall award; and because the said
 defendant hath not answered the said replication of the said plain-
 tiff, nor denied the same, the said plaintiff (as before) prays
 judgment and his said debt, together with his damages by him sus-
 tained on occasion of the detention thereof to be adjudged to him,
 &c.; but because the court of our said lord the king now here is Cur. adv. vult.
 not yet advised what judgment to give in the premises, whereon
 he said parties have put themselves upon the judgment of the
 court here, a day is therefore given to the parties aforesaid to
 come before our said lord the king at Westminster, on, &c. next
 after, &c. to hear judgment; for that the court of our said lord
 the king now here is not yet fully advised thereof; and as well to
 try the issue above joined between the said parties to be tried by
 the country, as to enquire what damages the said plaintiff hath sus-
 tained on occasion of the premises, whereon the said parties have
 put themselves upon the judgment of the court, in case judg-
 ment shall be given for the said plaintiff; let a jury thereupon come
 before our lord the king at Westminster, on, &c. next after, &c.
 who neither, &c. to recognize, &c. because as well, &c. the same
 day is given to the said parties there, &c.

BANK
 at the suit of

TAYLOR, ESQ. AND OTHERS, EXECUTORS. } And the said
 and defends the wrong and injury, when, &c. and says, that the William, by A. B.
 said Allen and Sands ought not to have or maintain their aforesaid his attorney, comes
 action against him; because he says, that the said Allen and Sands, that plaintiffs
 as executors as aforesaid, heretofore, to wit, in Hilary term, in had obtained a
 the twenty-third year of the reign of our lord the now king, im- judgment against
 pleaded the said William in the court of our said lord the king, defendant on
 before the king himself at Westminster, in the county of Middle- the same bond.
 sex aforesaid, in a plea of debt on demand for the sum of two hun-
 dred and six pounds of lawful money of Great Britain, of and
 upon the very same identical writing-obligatory mentioned in the
 said declaration; and such proceedings were thereupon had in the
 same court, that the said Allen and Sands afterwards, in that very
 same Hilary term, in the twenty-third year aforesaid, at Westmin-
 ster aforesaid, by the consideration and judgment of that court re-
 covered against the said William as well their said debt of two hun-
 dred and six pounds as also sixty-three shillings, which in and by the
 said court of our said lord the king, before the king himself at
 Westminster aforesaid, were adjudged to the said Allen and Sands,
 as executors as aforesaid, for their damages which they had sustained

as well by reason of detaining the said debt as for their costs and charges by them about their said suit in that behalf expended, whereof the said William was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in the county aforesaid, manifestly appears, which said judgment still remains in full force and effect, not in any wise reversed, annulled, vacated, or set aside ; and this, &c. wherefore, &c. if, &c.

Replication to
the last plea,
and *tiel record*.

TAYLOR, &c. }
against
BANKS.

And the said Allen and Sands say, that they by reason of any thing by the said William in his said plea in bar alledged, ought not to be barred from having and maintaining their aforesaid action thereof against him the said William, because they say, that there is not any such record of the said recovery still remaining in the said court of our said lord the now king, before the king himself here, to wit, at Westminster aforesaid, in the county aforesaid, as they the said William hath above in his said plea in that behalf alledged; and this, &c. when, where, and in what manner the court shall order, direct, or appoint, and thereupon the said William is commanded that he have the said record before our said lord the king at Westminster, on, &c. next after, &c. and that he fail not at his peril; the same day is given to the said Allen and Sands at the same place.

Plea, judgment
recovered, and
payment.

BANKS
at the suit of

TAYLOR, ESQ. AND OTHERS, EXECUTORS.

} And the said
William, by A.B.
his attorney,

comes and defends the wrong and injury, when, &c. and prays oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him in these words, to wit: Know all men, &c. &c. He also prays oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: The condition, &c. &c. ; which being read and heard, he the said William says, that the said Allen and Sands ought not to have or maintain their aforesaid action thereof against him ; because he says, that the said Allen and Sands, as executors as aforesaid heretofore, and after the making the aforesaid writing-obligatory, to wit, in Hilary term, in the twenty-third year of the reign of, &c. impleaded the said John Banks in the said writing-obligatory mentioned in the court of, &c. at Westminster, in the county of Middlesex, in a certain plea of debt on demand for the sum of two hundred and six pounds of lawful, &c. of and upon the very same identical writing-obligatory mentioned in the said declaration; and such proceedings were thereupon had in the same court, that the said Allen and Sands afterwards, to wit, in that same Hilary term, in the twenty-third year aforesaid, at West-

Westminster aforesaid, by the consideration and judgment of that court, recovered against the said John Banks, in the said writing-obligatory mentioned, their said debt of two hundred and six pounds, and also sixty-three shillings, which in and by the said court of our said lord the king, before the king himself, at Westminster aforesaid, were then and there adjudged to the said Allen and Sands, as executors as aforesaid, for their damages which they had sustained, as well by reason of the detaining the said debt, as for their costs and charges by them about their suit in that behalf expended, whereof the said J. B. was convicted, as by the record and proceedings thereof still remaining, &c. to wit, at, &c. in &c. manifestly appears: And the said William further says, that the said J. B. after the recovery of the said judgment against him, in form aforesaid, and before the day of exhibiting the bill of the said Allen and Sands in this behalf, to wit, in, &c. paid to the said Allen and Sands the sum of one hundred and nine pounds, being the said principal sum of one hundred and three pounds, and all interest for the same to that time, and also the sum of sixty three shillings for the damages, costs, and charges of the said Allen and Sands in their said suit against the said J. B. being the money due on the said judgment so recovered in the said writing-obligatory as aforesaid; and this, &c.; wherefore, &c. if, &c.

DYER
at suit of
JARNER, EXECUTOR. } AND the said John, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and saith that the said William, *actio non*; because he says, that in the day and year in the said declaration mentioned, one James Banks, as well as the said John, became bound by the said writing-obligatory in the said declaration mentioned, for the payment of the said four hundred pounds in the said writing-obligatory mentioned; and that the said James Banks, as well as the said John, then and there sealed, and as his act and deed delivered the said writing-obligatory, and the said John in fact further saith, that he the said John did not become bound by, nor seal or deliver the said writing-obligatory in the said declaration mentioned, without the aforesaid J. B. put together with him as aforesaid; and that after the signing, sealing, and delivering of the said writing-obligatory by him the said John and the aforesaid J. B. and in the lifetime of the said T. G. in the said declaration mentioned, to wit, on, &c. he the said T. G. by his certain writing of release then and there made and sealed, and delivered by him the said T. G. to the said J. B. in the considerations therein mentioned and contained, did remise, release, and for ever quit claim unto the said J. B. his heirs, &c. in each and every of them the said writing-obligatory, and all sums of money thereon or thereafter to become due and payable by virtue thereof, and of the conditions thereunder written, together with all, and all manner of action and actions, cause and causes of actions, suits, bills, bonds, writings-obligatory, debts, dues,

Plea (to debt on bond at the suit of executors) that defendant and one A. B. gave the bond jointly, and that the obligee in his lifetime released A. B. &c. &c.

Vide 2. Rol. Abr. 412. Salk. 574. Lit. Rep. 190. Co. Lit. 232. 2. Sid. 41.

five pounds for the forbearance of one hundred pounds for a year, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said John, who sues as aforesaid, to demand and have of and from the said Thomas as well for our said lord the king as for himself the said John G. who sues as aforesaid, other seventy-three pounds ten shillings, being treble the value of the said last-mentioned sum of twenty-four pounds ten shillings, so lent and forborne as last aforesaid, and further parcel of the said sum of two hundred and ninety-four pounds above demanded. [Two other Counts the same as the last, only instead of the sixteenth of November say the thirteenth, for fear of three days grace given, or the notice should not be strictly legal.]

Replication (to a plea that bond was given for money won at play) that it was given for a just and true debt, and not for money won at play.

AND the said Francis prays a day to imparl to the said plea, and it is granted him, &c.; and thereupon a day is given to the said parties to come before our lord the king in eight days of Saint Hilary, wheresoever he shall then be in England, for the said F. to imparl to the said plea, and then to reply to the same, &c.; at which day, before our said lord the king at Westminster, come the parties aforesaid, by their attornies aforesaid: And the said F. as to the said plea of the said F. by him lastly above pleaded in bar, saith, that he, by reason of any thing in that plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against him; because he says, that the said T. sealed and delivered as his deed the said writing-obligatory in the said declaration mentioned to the said F. for a true and just debt due and owing from the said T. to the said F. and not for securing the payment to the said F. of any monies by him the said F. won of the said J. at play, in manner and form as the said J. hath above in that behalf alledged; and this he prays may be enquired of by the country; and the said J. doth so likewise; therefore as well to try this issue as the said other issues between the said parties above joined, the sheriffs are commanded, &c.

Demurrer to replication.

[Set forth the formal parts as usual, these causes following, that is to say, for that the said Francis traverses the matter contained in the said plea, to wit, that the said writing was given for money won at play, and concludes the said traverse to the country, whereas by the established practice and authorities the said traverse ought to have concluded to the court, and with an averment.]

T. WALKER.

Against a sheriff's officer, for carrying a person arrested by

MIDDLESEX, to wit. J. A. complains of G. N. being, &c. of a plea that he render to him one hundred and fifty pounds of lawful, &c. which he owes to and unjustly detains from him: him to a publick house, on 2. Geo. 2. ch. 24.

of

[illegible]

said George then and until and after the return of the said writ being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court of his majesty's palace, to be executed in due form of law, by virtue of which said writ he the said G. then being one of the bearers of the verges of the said household, and an officer and minister of the said court as aforesaid, afterwards and before the return of the said writ, on the twenty-first day of April, in the tenth year aforesaid, at Westminster, in the county of Middlesex, and within the jurisdiction of that court, took and arrested the said T. A. by his said body for the cause aforesaid, at the suit of the said T. F. in the plea aforesaid, and had the said T. A. in his custody for the cause aforesaid. And the said T. A. in fact saith, that he the said G. having arrested the said T. A. and having and detaining him the said T. A. under his said arrest and in his custody as aforesaid, by virtue of and under colour of the said writ, he the said G. afterwards, the same day and year last aforesaid, conveyed and carried the said T. A. so by him the said G. arrested as aforesaid, and being in the custody of the said G. as aforesaid, to a certain publick victuall and drinking house belonging to one T. W. *situate and being in certain court or place called Angel Court, in W Street, in the parish of St. James's, Westminster, in the said county of Middlesex, and within the jurisdiction aforesaid*, against the will of the said T. A. and kept and detained the said T. A. so under his arrest in his custody as aforesaid, by virtue and under colour of the said writ, for a long time, to wit, for the space of sixteen hours the next following, contrary to the form of the said statute; for which said offence *he the said G. being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court as aforesaid, according to the form and effect of the said act forfeited and ought to pay to the said T. A. (he the said T. A. being the person thereby aggrieved) the sum of fifty pounds whereby an action hath accrued to the said T. A. to have and demand of the said G. the said fifty pounds, parcel of the said one hundred and fifty pounds above demanded: And the said T. A. further in fact saith, that the said T. A. being so under the arrest and in the custody of the said G. as aforesaid, by virtue and under colour of the said writ for the cause aforesaid, to wit, at Westminster aforesaid, and within the jurisdiction aforesaid, the said G. being one of the bearers of the verges of his majesty's household, and an officer and minister of the said court as aforesaid, then and there, to wit, on the twenty-first of April, the sixteenth year aforesaid, at Westminster aforesaid, and within the jurisdiction aforesaid, did carry the said T. A. without the consent of the said T. A. being so arrested and in his custody as aforesaid, and against his will, to a certain publick victuall and drinking house belonging to the said T. W. *situate, &c. (as Italic to jurisdiction aforesaid)*, and then permitting liquors to be called for and had by the said T. A. without the said G. or any person whatsoever shewing, producing, or reading the clause of the said act in that particular mentioned, and by the said act*

2d Count, for permitting li-
quors to be cal-
led for and had
by the said, &c.
without first
reading the
clause by said
act appointed to
be read, &c.

quired to be shewn by the said G. to the said T. contrary to the
 term and effect of the said statute, which said last-mentioned offence
 is the said G. being one of the bearers of the verges, &c. (as be-
 fore) and fifty pounds, &c. parcel of the said sum of one hundred
 and fifty pounds above demanded: And the said T. A. further in ^{3d Count, for}
 his faith, that he the said T. A. (as in the second Count, to ju- exacting from
isdiction aforesaid) demanded, exacted, and took of and from the prisoner as a
 said T. A. so being under arrest in his custody by virtue of and gratuity.
 under colour of the said writ as aforesaid, the sum of ten shillings
 and sixpence as a gratuity or reward for keeping the said T. A. so
 arrested and in his custody as aforesaid, out of a gaol or prison of
 the said court of his majesty's palace aforesaid, contrary to the
 term of the said statute, for which last-mentioned offence he the
 said G. being one of the bearers, &c. (as before) other fifty
 pounds, the residue of the said one hundred and fifty pounds above
 demanded; yet the said G. although often requested, hath not yet
 paid the said one hundred and fifty pounds, or any part thereof, to
 the said T. A. but he to pay the same hath hitherto wholly refused,
 and still doth refuse, to the said T. A. his damage of, &c.

MEMORANDUM of St. Hilary last, &c.: London, to wit, Declaration by
 John Bosworth, esquire, chamberlain of the city of London, com- the chamberlain
 plains of Peter Puget, being, &c. himself, of a plea that he render of London, a-
 to him seventy-five pounds of lawful, &c. which he owes and un- gainst one for
 justly detains from him: For that whereas in and by a certain act acting as a bro-
 made in a parliament of the Lady Ann, queen of Great Britain, ker without a
 &c. at Westminster, in the county of Middlesex, the twenty- licence.
 third day of October, in the twenty-sixth year of her reign, it
 was amongst other things enacted by the authority of the same par-
 liament, that from and after the determination of the present ses-
 sion of parliament all persons that should act as brokers within the
 city of London and liberties thereof, should from time to time be
 admitted so to do by the court of mayor and aldermen of the said
 city for the time being, and under such restrictions and limitations
 for honest and good behaviour as that court should think fit and
 reasonable: And it was further enacted by the said act, that if any
 person or persons from and after the determination of the then
 present sessions of parliament, should take upon him to act as a
 broker, or employ any other under him to act as such within the
 same city or liberties, not being admitted as aforesaid, every such
 person or persons so offending should forfeit and pay to the use of
 the mayor, and commonalty, and citizens of the said city, for every
 such offence, the sum of twenty-five pounds to be recovered by
 action of debt in the name of the chamberlain of the said city in any
 court of record of the said lady the queen, in which no protection,
 assign or wager of law should be allowed or any more than one
 imparlance, as in and by the said act, amongst other things, it
 doth and may more fully appear: And the said John Bosworth in
 his faith, that after the determination of the said session of parlia-
 ment, to wit, the eleventh of May 1742, he the said John Bos-
 worth was, and ever since hath been, and now is, chamberlain of
 the

the city of London, and that the said Peter Puget afterwards, to wit, on the same eleventh day of May, in the said, &c. 1742, within the said city of London, to wit, in the parish of St. Mary-le-Bow in the ward of Cheap, did take upon himself to act as a broker, and the said Peter Puget, as a broker, then and there did, for a reward to him the said Peter Puget to be given by one Martha Batigne, sell for the said Martha one hundred and thirty-six pounds seven shillings of a certain stock belonging to the governor and company of the merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the fishery, called the joint stock of South Sea annuities, and also commonly called New South Sea Annuities, and afterwards, to wit, the day and year last above-mentioned, in the parish and ward aforesaid, he the said Peter, as a broker, did procure the said one hundred and thirty-six pounds seven shillings stock to be transferred by the said Martha to one W. Whitmore in the books of the said governors and company, contrary to the form and effect of the said act, he the said Peter there, or at any time before, or since, not being admitted by the said court of mayor and aldermen of the said city to be a broker, or to act or negotiate as a broker within the said city of London and liberties thereof, by which an action hath accrued to the said John Bosworth to demand and have of the said Peter the sum of twenty-five pounds, parcel of the said sum of seventy-five pounds above demanded: And the said John Bosworth further saith, that afterwards, to wit, on the fifteenth day of November, in the year of Our Lord 1744, within the said city, he the said Peter did further take upon himself to act as a broker, [this Court the same as the last]. [3d Count, for acting as a broker in making contracts between merchants and merchants and others, for a reward to be by him received for the same]; yet the said Peter, although often requested, hath not paid the said sum of seventy-five pounds, or any part thereof, to the said John, but hath hitherto refused, and still doth refuse to pay the same; whereby the said John Bosworth saith that he is injured and hath sustained damage to the amount of fifty pounds, and therefore he brings his suit, &c.

Imparlance by plaintiff that sheriffs are citizens, and prays a writ of *venire facias* to be directed to the coroner.

AND now at this day, to wit, on Wednesday next after fifteen days from the day of Easter in this same term, to which day, &c. came as well the said plaintiff, &c. as the said P. his attorney, and the said P. P. defends the wrong and injury, when, &c. and *nil debet modo et formâ* issue; whereupon the said J. B. saith, that Walter B. esquire, and Samuel W. P. esquire, who only are the sheriffs of the said city of L. and are also two of the said citizens and freemen of the said city, and for which cause the said J. B. prays a writ of our lord the king of *venire facias* to be directed to the coroner of the said city of L. to summon twelve good and lawful men, &c. to try the issue above joined; and because the said P. doth not deny the said allegation of the said J. B. but is well satisfied with the truth thereof, therefore the coroner of the said city is commanded to have before our sovereign lord the king at Westminster,

on , next after , twelve good and lawful the said city, every one of which to have at least ten per year of lands, tenements, or rents, by whom the truth matter may be the better known, and who are not citizens men of the said city, or any way related either to the said to the said P. to recognize and make a jury of the county the said parties of the plea aforesaid, because as well the n as the said Peter, between whom is the matter in dispute, omitted themselves to that jury, the same day is given the fore said at the same place.

in the statute a distinction between ancient brokers and stock jobbers: they differ in their ne relating to contracts be- merchants in the mercantile af- ther to the change of property nent securities, which are but nding, and not being when ropriety so called, were so much 8. & 9. Wil. 3. ch. 32. distin- m St. 1. Jac. 1 ch 21 describes : brokers as freemen of Lon- ed out of companies, the certi- merchants recommends them d in trade, understanding di- of merchandizes, and qualified roker in the Royal Exchange. ient brokers are meant by 6. . Geo. 2. c. 31. empowers the

magistrates of Bristol to allow such sort of brokers, and the words of 6. Ann, are general to all brokers; yet ought, I think, to be restrained to ancient bro- kers, as not intending to alter and en- large the meaning of the old sort of bro- kers, and the duty on admission given to the city was in lieu of an old revenue which this act took from them. If they intended to include stock-brokers, they would not by that act have left it gene- rally under brokers. The city have not within forty years punished stock-jobbers, who have acted without their admission, and the forms of certificates relate seem- ingly to older brokers, then I think stock- brokers are not within the meaning of 6. Ann, or liable to the penalties.

DLESEX, to wit. The plaintiff, who sues as well for seers of the poor of the parish of St. M. Westminster, in city of Middlesex, for the use of the said poor, as for him- nplains of defendant, being, &c. of a plea of debt, that he o the said overseers of the poor, for the use of the said poor, e said plaintiff, who sues as aforesaid, three hundred and fifty of lawful, &c. which he owes to and unjustly detains from or that whereas the said defendant, not regarding the said n such case made and provided, nor fearing the penalty ontained, after the making of a certain act of parliament, Westminster, in the county of Middlesex, in the twelfth the reign of Our Lord the now king, entitled, &c. and making of the said act of parliament, and after the twenty- f June 1772 aforesaid, in that act mentioned, and during inuance of the said act, to wit, on the fourteenth of No- in the twenty-fourth year aforesaid, at and in the said parish L. Westminster, in the county of Middlesex aforesaid, and be weekly bills of mortality mentioned in the said act, did erect, and cause to be built and erected, a certain house tation standing in the parish and ward last aforesaid, and there wrongfully, and against the form of the statute in e made and provided, in the building and erecting the said r habitation did then and there wrongfully and unjustly erect, or cause to be built and erected, the jambs of by

Declaration a- gainst defendant for building a house, the jambs of the chimnies not being one brick and a half or 13 inches thick in the cellar or lower story.

12. Geo. 3.

- chimnies* of, in, and belonging to the said house, the jambs of the said chimney *not* being at least *one brick and a half* or thirteen inches thick *in the cellar or lower story*, and then and there finished, or caused to be finished, the said house for habitation, the said jambs of the said chimnies not being then or yet built or erected of the thickness at the least of one brick and a half, or thirteen inches thick, in the cellar or lowest story, contrary to the form and effect of the said statute in such case made and provided; whereby and by force of the said statute in such case made and provided, the said defendant forfeited for his said last-mentioned offence the sum of fifty pounds; and whereby and by force of the statute in such case made and provided an action hath accrued to the said plaintiff, who sues as aforesaid, to demand and have of and from the said defendant, for himself and the said overseers of the poor of the parish aforesaid, for the use of the said poor, the sum of fifty pounds so forfeited as aforesaid, parcel of the said sum of pounds above demanded: And [2d Count, for building a house, the jambs of *one of the chimnies* not being thirteen inches or a brick and a half thick in the cellar or lower story: 3d Count, the jambs and *backs* of the chimnies not being of the thickness aforesaid in the cellar or lower story, and *from thence to the upper story of such building*]:
- 2d Count.
- 3d Count.
- 4th Count, for not building a party wall between house and house only of brick or stone, or of brick and stone. And the said plaintiff, who sues as aforesaid, further says, that the said defendant, not regarding the statute in such case made and provided, nor in the least fearing the penalty therein contained, after the making of the said act of parliament, and after the twenty-fourth of June 1772 aforesaid, in that act mentioned, and during the continuance of the said act, to wit, on the fourteenth of November, in the fourteenth year aforesaid, at and in the said parish of St. Mary, Westminster, in the county of Middlesex aforesaid, and within the weekly bills of mortality mentioned in the said act, did build and erect, or cause to be built and erected, a certain other house for habitation, standing in the parish and county aforesaid, and then and there did unlawfully and against the form of the statute in such case made and provided, in the building and erecting the said house for habitation, wrongfully and unjustly build and erect, or cause to be built and erected, and in the building or erecting of the said house or tenement for habitation *did not build* or erect, or cause to be built or erected, *a party wall between house and house* only of bricks or stone, or of bricks and stone together, and then and there finish, or cause to be finished, the said house for habitation, the said party wall, between the said house and the next house or other building adjoining thereto, not being built only of brick or stone, or of brick and stone together, contrary to the form and effect of the said statute in such case made and provided; whereby, &c.:
- 5th Count, on 10s. for laying timber into a party wall, the said timber not being used for the purpose mentioned in the act. And the said plaintiff, who sues as well for the overseers of the poor of the parish of St. M. Westminster, in the county of Middlesex aforesaid, for the use of the poor, as for himself the said plaintiff, further says, [as in the last Count] and the said building and erecting the said house for habitation, laid, or caused to be *laid*

o a certain party wall of the said house, and between the use and the next house or other building adjoining thereto, *pieces of timber*, the said timber not being *girders, binding* ming joists, or the templets under the same, or necessary, square bound timbers as aforesaid, and then and there *l, or caused to be finished*, the said house for habitation, the *ber not being used or placed for girders, binders, or trim-* ists, or the templets under the same, or necessary, sound, bound timber, then being laid or affixed unto the said party *the said house, and between the said house and the next* or other buildings adjoining thereto as aforesaid, contrary to *n of the statute; whereby, &c.:* And the said plaintiff, *es as well, &c. and within the weekly bills of mortality* ned in the said act, did build and erect, or caused to be *ad erected, a certain other house for habitation, situate in* ish and county last aforesaid, the expence of building which *use for habitation did exceed the sum of one hundred and* pounds, and then and there did unlawfully and against the *f the statute in that case made and provided, in the build-* erecting the said house for habitation, wrongfully, and un- *uilt and erected, or caused to be built or erected, a cer-* ty wall of and belonging to the said house for habitation, *'party wall of the said house not being of the thickness of one* *nd a half in length, or thirteen inches from the garret floor* s, and then and there finished, or caused to be finished, the *use for habitation, the said party wall not being of the thick-* *one brick and a half in length, or thirteen inches, and car-* of such last-mentioned thickness to the full height of eigh- *ches above the roof or gutters adjoining thereto, contrary* form of the statute, &c.: And the said plaintiff, &c. [as *did build and erect, or caused to be built and erected, a* house for habitation, standing in the parish and county last *d, and did not in the building or erecting of the said house* itation leave, *or cause to be left, five inches at the least of* *ick work at or between the ends of lintals, wall-planks, and* mber used in the aforesaid building, and then and there *l, or caused to be finished the said house for habitation,* ot being left five inches at the least of the solid brick work *etween the ends of lintals, wall-plates, and bond-timbers* the said building of the said house for habitation, contrary *form and effect of the statute; whereby, &c.;* yet the said *ne, although often requested, &c. hath not yet paid the* *ree hundred and fifty pounds, or any part thereof, to the* intiff and the overseers of the poor of the said parish, for *of the said poor, or to any of them, but he to pay the same* *l, or any of them, hath hitherto wholly refused and still re-* the said plaintiff, who sues as aforesaid, his damage of *pounds; and therefore, as well for the said overseers of the* *the said parish, for the use of the said poor as for himself, he* *his suit, &c. Pledges, &c. Drawn by MR. WARREN.*

6th Count, for building a party wall in a house that exceeded the sum of 120l. in building, not being of the thickness of one brick and a half in length, or 13 inches, from the garret floor upwards, and carrying it up of such a thickness to the full height of 18 inches above the roof and gutters adjoining thereto, on sec. 1.

7th Count, for laying the timber of the roof into a flank or side wall, the said timber of the roof not being used for the purpose mentioned in the act.

Declaration in
the exchequer,
on the stat. P. &
M. for driving
cattle distrained
out of the hun-
dred. 1. & 2.
P. & M. c. 12.

CARMARTHENSHIRE, to wit. H. L. esquire, a debtor of our lord the king, cometh before the barons of this exchequer on the twenty-eighth of May this term, by P. B. his attorney, and complains by bill against J. W. D. J. and J. T. present here in court the same day, of a plea of trespass on the case: For that whereas by a statute made at a parliament of the lord and lady Philip and Mary, late king and queen of England, begun and holden at Westminster on the twelfth of November, in the first and second year of their reign, and there continued and kept until the dissolution of the same, to wit, the sixteenth of January then next ensuing, it was amongst other things enacted, that from and after the first of April then next coming, no distress of cattle should be driven out of the hundred, rape, wapentake, or lathe where such distress was or should be taken, except that it be a pound overt within the same shire, not above three miles distant from the place where the distress was taken, upon pain that every person offending contrary to the said act should forfeit to the party grieved for every such offence one hundred pounds and treble damages, as by the said statute more fully appears; yet the said defendants, with M. J. &c. not regarding the said statute, on the twenty-ninth of July 1758, at the parish of _____, in the hundred of Cayo, in the county of C. took and distrained certain cattle, to wit, five horses, &c. of the said H. of the price of one hundred pounds, there found for and in the name of a distress, and drove the said cattle to the borough of Carmarthen, in the county of the same borough, above three miles, to wit, twelve miles distant from the parish aforesaid, in contempt of our said lord the now king, to the great damage of the said H. and contrary to the form of the statute aforesaid: And the said H. L. further saith, that the said defendant, together with, &c. not regarding the said statute on the said twenty-ninth of July 1758, at the parish aforesaid, in the hundred aforesaid, in the county of Carmarthen, took and distrained certain other cattle, to wit, fifteen other horses, &c. of the said H. of the price of other three hundred pounds, there found for and in the name of a distress, and drove the same last-mentioned cattle to the borough in the city of the same borough, above five miles, to wit, twelve miles distant from the parish aforesaid, in the county, &c. to the great damage of the said H. and contrary to the form of the statute aforesaid, to the damage of the said H. of one hundred pounds; whereby, &c. Therefore let a jury be made thereof; and because the issue aforesaid between the said parties above joined ought to be tried by men of the next English county to the said city of C. adjacent, and because the county of H. is the next English county to the said county of C. adjacent, therefore, &c.

Venire awarded
to the next Eng-
lish county.

On the stat. of
gaming by the
party to recover
the money lost,
9. Ann. c. 24.

LINCOLNSHIRE, to wit. F. W. late of, &c. to answer J. J. of a plea, &c. twenty-two pounds of, &c. which, &c.; and whereupon, &c. says that the said F. after the first of May 1711, to wit, on the sixth of December 1758, at G. in the said county, was and is indebted to the said J. in twenty-two pounds of, &c.

which

hich he the said J. had before then and after the first of May 1758, and also within three months next preceding the suing forth the original writ of the said J. that is to say, on the first of December 1758, at G. aforesaid, lost to the said F. at one and the same sitting, by playing at cards with the said F. and which the said J. had then and there paid to the said F.; whereby and by force, and according to the form of the statute made in the ninth year of the reign of the lady Anne, late queen of Great Britain, Westminster, in the county of Middlesex, entitled, "An Act for the better preventing of excessive and deceitful Gaming," an action hath accrued to the said J. to demand and have of the said F. the said twenty-two pounds above demanded, being the money so lost and paid by the said J. to the said F. as aforesaid; and the said F. although, &c. hath not, &c. but hath, &c. to the said J. his damage of twenty-two pounds, and therefore, &c.

MIDDLESEX, to wit. J. W. against R. P. in Common Pleas: (a) Declaration on that whereas said plaintiff, after the making of a certain act of parliament in the second year of the reign of the lord the now king, entitled, "An Act for the Relief of Debtors, with respect to the Imprisonment of their Persons," that is to say, on the thirteenth of April A. D. 1749, being a prisoner in his majesty's goal of Newgate, in the said county, in the custody of the then sheriff of the county aforesaid, in execution for the sum of twenty-eight pounds ten shillings, at the suit of said defendant, on the same day and year, being the second day of the term of Easter in that year, was brought up into the court of our said lord the king, before the king himself (the said court then and still being held at Westminster, in the said county of Middlesex), by virtue of a rule of the same court before made for that purpose, in order to his being then discharged out of the custody of the then sheriff, as to the said execution with which he stood charged, at the suit of the said defendant, according to the form and effect of the said act of parliament; and said defendant on that occasion then and there appearing in the same court opposed the discharge of said plaintiff, and insisted upon his being detained in prison; and thereupon said defendant, in pursuance of said act of parliament, on same day and year aforesaid, at Westminster aforesaid, did make his certain note in writing with his own hand thereunto subscribed, bearing date same day and year, and by said note did promise to pay to said plaintiff the sum of two shillings and fourpence on every Thursday (b) in every week from the date of said note, for all such time as he the said plaintiff should continue in prison at suit of said defendant, whereupon said defendant was not discharged, but was then and there carried back to the goal of Newgate there at the suit of said defendant; by reason of which said premises, and by force of said act of parliament, said defendant became liable to pay to said plaintiff the sum of two shillings and fourpence on every Thursday in every week from the date of the said note, for all such time as he

on stat. 32. Geo. 2. c. 28. commonly called the Lord's Act; plaintiff sues in an action on the case for 2s. 4d. per week, on the note given on keeping him in prison.

(b) Qu. If not Monday.

(a) This is a declaration in *case*, and not in *debt*.

five pounds for the forbearance of one hundred pounds for a year, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said John, who sues as aforesaid, to demand and have of and from the said Thomas as well for our said lord the king as for himself the said John G. who sues as aforesaid, other seventy-three pounds ten shillings, being treble the value of the said last-mentioned sum of twenty-four pounds ten shillings, so lent and forborne as last aforesaid, and further parcel of the said sum of two hundred and ninety-four pounds above demanded. [Two other Counts the same as the last, only instead of the sixteenth of November say the thirteenth, for fear of three days grace given, or the notice should not be strictly legal.]

Replication (to a plea that bond was given for money won at play) that it was given for a just and true debt, and not for money won at play.

AND the said Francis prays a day to imparl to the said plea, and it is granted him, &c.; and thereupon a day is given to the said parties to come before our lord the king in eight days of Saint Hilary, wheresoever he shall then be in England, for the said F. to imparl to the said plea, and then to reply to the same, &c.; at which day, before our said lord the king at Westminster, come the parties aforesaid, by their attornies aforesaid: And the said F. as to the said plea of the said F. by him lastly above pleaded in bar, saith, that he, by reason of any thing in that plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against him; because he says, that the said T. sealed and delivered as his deed the said writing-obligatory in the said declaration mentioned to the said F. for a true and just debt due and owing from the said T. to the said F. and not for securing the payment to the said F. of any monies by him the said F. won of the said J. at play, in manner and form as the said J. hath above in that behalf alledged; and this he prays may be enquired of by the country; and the said J. doth so likewise; therefore as well to try this issue as the said other issues between the said parties above joined, the sheriffs are commanded, &c.

Demurrer to replication.

[Set forth the formal parts as usual, these causes following, that is to say, for that the said Francis traverses the matter contained in the said plea, to wit, that the said writing was given for money won at play, and concludes the said traverse to the country, whereas by the established practice and authorities the said traverse ought to have concluded to the court, and with an averment.]

T. WALKER.

Against a sheriff's officer, for carrying a person arrested by

MIDDLESEX, to wit. J. A. complains of G. N. being, &c. of a plea that he render to him one hundred and fifty pounds of lawful, &c. which he owes to and unjustly detains from him: him to a publick house, on 2. Geo. 2. ch. 24.

of

certain feigned, covenous, and fraudulent suit, and in which said suit a certain feigned, covenous, and fraudulent judgment was on the same day and year last aforesaid, to wit, on the term of the Holy Trinity, in the twenty-first year of the reign of our lord the now king, entered of record in the court of our lord the king before the king himself, the said court then and still being held at Westminster, in said county of Middlesex, by which said judgment the said Thomas did feignedly, covenously, and fraudulently recover against the said James five hundred pounds debt, and also sixty-three shillings damages, to the purpose and intent to delay, hinder, and defraud said plaintiff of his just and lawful debt, he the said plaintiff then being a creditor of said James for a certain sum of money, to wit, the sum of one hundred and thirty-four pounds five shillings and one penny, and said judgment did then and there put, enure, avow, maintain, justify, and defend as true, simple, and due, *bona fide* and upon good consideration, by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to said plaintiff, who sues as aforesaid (he said plaintiff being the party aggrieved by the said feigned, covenous, and fraudulent suit and judgment), to demand and have for our said lord the king and for himself the said plaintiff, of and from the said defendants, the sum of *five hundred pounds*, being the sum of money contained and recovered by the said Thomas against said James by said feigned, covenous, and fraudulent judgment, parcel of said sum of six hundred and seventy pounds above mentioned: *And whereas* also after the tenth day of June, in the thirteenth^{2d Court.} year of the reign of our late sovereign lady queen Elizabeth of England, France, and Ireland, &c. on said day of July 1781, they said defendants intending to delay, hinder, and defraud said plaintiff of a just and lawful debt, to wit, of the sum of one hundred and thirty-four pounds five shillings and one penny due by said James to said plaintiff, they the said defendants did feignedly, covenously, and fraudulently issue out, and cause and procure to be issued out of the court of our said lord the king, before the king himself, the said court then and still being held at Westminster, in the county of Middlesex, a certain feigned, covenous, and fraudulent execution, grounded upon the aforesaid feigned, covenous, and fraudulent judgment, to wit, a certain writ of our said lord the king, called a *fiery facias*, directed to the sheriffs of London, whereby said sheriffs were commanded to levy of the goods of said James five hundred pounds debt, and sixty-three shillings damages; and to have that money before the said lord the king on Tuesday then next after the morrow of All Souls, to render to said Thomas for the said debt and damages, whereof it was alledged the said James was convicted, as appeared to our said lord the king of record, and the said feigned, covenous, and fraudulent execution was afterwards issued, they said defendants did put, and each of them did put, enure, and did avow, justify, and defend as true, simple, and done *bona fide*, and upon good consideration, and afterwards, to wit, on the same day and year last aforesaid, at Westminster

five pounds for the forbearance of one hundred pounds for a year, contrary to the form of the statute in such case made and provided; by reason whereof, and by force of the statute in such case made and provided, an action hath accrued to the said John, who sues as aforesaid, to demand and have of and from the said Thomas as well for our said lord the king as for himself the said John G. who sues as aforesaid, other seventy-three pounds ten shillings, being treble the value of the said last-mentioned sum of twenty-four pounds ten shillings, so lent and forborne as last aforesaid, and further parcel of the said sum of two hundred and ninety-four pounds above demanded. [Two other Counts the same as the last, only instead of the sixteenth of November say the thirteenth, for fear of three days grace given, or the notice should not be strictly legal.]

Replication (to a plea that bond was given for money won at play) that it was given for a just and true debt, and not for money won at play.

AND the said Francis prays a day to imparl to the said plea, and it is granted him, &c.; and thereupon a day is given to the said parties to come before our lord the king in eight days of Saint Hilary, wheresoever he shall then be in England, for the said F. to imparl to the said plea, and then to reply to the same, &c.; at which day, before our said lord the king at Westminster, come the parties aforesaid, by their attornies aforesaid: And the said F. as to the said plea of the said F. by him lastly above pleaded in bar, saith, that he, by reason of any thing in that plea alledged, ought not to be barred from having and maintaining his aforesaid action thereof against him; because he says, that the said T. sealed and delivered as his deed the said writing-obligatory in the said declaration mentioned to the said F. for a true and just debt due and owing from the said T. to the said F. and not for securing the payment to the said F. of any monies by him the said F. won of the said J. at play, in manner and form as the said J. hath above in that behalf alledged; and this he prays may be enquired of by the country; and the said J. doth so likewise: therefore as well to try this issue as the said other issues between the said parties above joined, the sheriffs are commanded, &c.

Demurrer to replication.

[Set forth the formal parts as usual, these causes following, that is to say, for that the said Francis traverses the matter contained in the said plea, to wit, that the said writing was given for money won at play, and concludes the said traverse to the country, whereas by the established practice and authorities the said traverse ought to have concluded to the court, and with an averment.]

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Against a sheriff's officer, for carrying a person arrested by

MIDDLESEX, to wit. J. A. complains of G. N. being, &c. of a plea that he render to him one hundred and fifty pounds of lawful, &c. which he owes to and unjustly detains from him: him to a publick house, on 2. Geo. 2. ch. 24.

of

For that whereas by a certain act made in the parliament of our sovereign lord the now king, held at Westminster, in the county of Middlesex, by prorogation the twenty-first day of January, in the second year of the reign of his present majesty, it was amongst other things enacted by the authority of the same parliament, that the sheriff, under sheriff, &c. [here recite the 1st section]: And was further enacted, by the authority aforesaid, that all and every sheriff, under sheriff, &c. [recite the 2d section]: And it was further enacted by the said act, that every sheriff, &c. [here recite the 16th section], as to the forfeiture of fifty pounds, with treble costs of suit, as by the said act, amongst other things, it doth and may more fully appear: And the said Thomas in fact says, that after the making of the said act, to wit, on the seventh day of April, in the tenth year of the reign of our sovereign lord the now king, the Thomas Freeman came into the court of our said lord the now king of his said majesty's palace at Westminster, then held at Southwark, in the said county of Surry, within the jurisdiction of the said court, before Lionel, duke of Dorset, then steward of his said majesty's household, and sir Thomas Abney, knight, then steward of the said court, judges of the said court, by virtue of the letters-patent of Charles the Second, late king of England, &c. bearing date at Westminster the fourth day of October, in the thirteenth year of his reign, and then and there, according to the custom of the said court from time immemorial used and approved in the said court, levied his certain plaint against the said Thomas Allen, at the suit of the said T. F. in a certain plea of trespass upon the case, and the said T. F. then and there, according to the custom of the said court, found pledges to prosecute the said plaint, to wit, John Doe and Richard Roe, and such were the proceedings thereupon in his majesty's court of his palace at Westminster aforesaid, that afterwards, to wit, on Friday, the fifteenth day of April, in the tenth year aforesaid, at a court of our said lord the king of his palace then holden at Southwark aforesaid, before the aforesaid judges of his said court, by virtue of the said letters-patent there issued out of his said majesty's court, according to the custom of the said court, his majesty's certain receipt, directed to the bearer of the verges of his said majesty's house, and to the officers and ministers of his said majesty's court of his palace aforesaid, and every of them, whereby his said majesty's commission under them, and every of them, that they or one of them should take the said T. A. if he should be found within the jurisdiction of the said court, and him safely keep, so that they or one of them might have his body before the judges of the said court, at the then next court of his said majesty's palace aforesaid, on Friday the twenty-second day of April then next following, to be held at Southwark, in the county of S. aforesaid, to answer to the said T. F. in the said plea of trespass upon the case, to the said T. F. his damage of five pounds; which said writ afterwards, and before the return thereof, to wit, on the said fifteenth day of April, in the tenth year aforesaid, at Westminster aforesaid, within the jurisdiction aforesaid, was delivered to the said George, he the said

said George then and until and after the return of the said writ, being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court of his majesty's palace, to be executed in due form of law, by virtue of which said writ he the said G. then being one of the bearers of the verges of the said household, and an officer and minister of the said court as aforesaid, afterwards and before the return of the said writ, on the twenty-first day of April, in the tenth year aforesaid, at Westminster, in the county of Middlesex, and within the jurisdiction of that court, took and arrested the said T. A. by his said body for the cause aforesaid, at the suit of the said T. F. in the plea aforesaid, and had the said T. A. in his custody for the cause aforesaid: And the said T. A. in fact saith, that he the said G. having arrested the said T. A. and having and detaining him the said T. A. under his said arrest and in his custody as aforesaid, by virtue of and under colour of the said writ, he the said G. afterwards, the same day and year last aforesaid, conveyed and carried the said T. A. so by him the said G. arrested as aforesaid, and being in the custody of the said G. as aforesaid, to a certain publick victualling and drinking house belonging to one T. W. *situate and being in a certain court or place called Angel Court, in W Street, in the parish of St. James's, Westminster, in the said county of Middlesex, and within the jurisdiction aforesaid,* against the will of the said T. A. and kept and detained the said T. A. so under his arrest and in his custody as aforesaid, by virtue and under colour of the said writ, for a long time, to wit, for the space of sixteen hours then next following, contrary to the form of the said statute; for which said offence *he the said G. being one of the bearers of the verges of his said majesty's household, and an officer and minister of the said court as aforesaid, according to the form and effect of the said act, forfeited and ought to pay to the said T. A. (he the said T. A. being the person thereby aggrieved) the sum of fifty pounds, whereby an action hath accrued to the said T. A. to have and demand of the said G. the said fifty pounds, parcel of the said one hundred and fifty pounds above demanded:* And the said T. A. further in fact saith, that the said T. A. being so under the arrest and in the custody of the said G. as aforesaid, by virtue and under colour of the said writ for the cause aforesaid, to wit, at Westminster aforesaid, and within the jurisdiction aforesaid, he the said G. being one of the bearers of the verges of his majesty's household, and an officer and minister of the said court as aforesaid, then and there, to wit, on the twenty-first of April, in the sixteenth year aforesaid, at Westminster aforesaid, and within the jurisdiction aforesaid, did carry the said T. A. without the consent of the said T. A. being so arrested and in his custody as aforesaid, and against his will, to a certain publick victualling and drinking house belonging to the said T. W. *situate, &c. (as in Italic to jurisdiction aforesaid),* and then permitting liquors to be called for and had by the said T. A. without the said G. or any person whatsoever shewing, producing, or reading the clause in the said act in that particular mentioned, and by the said act re-

2d Count, for permitting li-
quors to be cal-
led for and had
by the said, &c.
without first
reading the
clause by said
act appointed to
be read, &c.

ired to be shewn by the said G. to the said T. contrary to the
 m and effect of the said statute, which said last-mentioned offence
 the said G. being one of the bearers of the verges, &c. (as be-
 e) and fifty pounds, &c. parcel of the said sum of one hundred
 l fifty pounds above demanded: And the said T. A. further in ^{3d Count, for}
 t faith, that he the said T. A. (as in the second Count, to ju- exacting from
 dition *aforsaid*) demanded, exacted, and took of and from the prisoner as a
 l T. A. so being under arrest in his custody by virtue of and gratuity.
 der colour of the said writ as *aforsaid*, the sum of ten shillings
 l sixpence as a gratuity or reward for keeping the said T. A. so
 ested and in his custody as *aforsaid*, out of a gaol or prison of
 said court of his majesty's palace *aforsaid*, contrary to the
 m of the said statute, for which last-mentioned offence he the
 d G. being one of the bearers, &c. (as before) other fifty
 unds, the residue of the said one hundred and fifty pounds above
 manded; yet the said G. although often requested, hath not yet
 id the said one hundred and fifty pounds, or any part thereof, to
 e said T. A. but he to pay the same hath hitherto wholly refused,
 d still doth refuse, to the said T. A. his damage of, &c.

MEMORANDUM of St. Hilary last, &c.: London, to wit, Declaration by
 hn Bosworth, esquire, chamberlain of the city of London, com- the chamberlain
 ains of Peter Puget, being, &c. himself, of a plea that he render of London, a-
 him seventy-five pounds of lawful, &c. which he owes and un- gainst one for
 stly detains from him: For that whereas in and by a certain act acting as a bro-
 ade in a parliament of the Lady Ann, queen of Great Britain, ker without a
 c. at Westminster, in the county of Middlesex, the twenty- licence.
 ird day of October, in the twenty-sixth year of her reign, it
 as amongst other things enacted by the authority of the same par-
 ment, that from and after the determination of the present ses-
 on of parliament all persons that should act as brokers within the
 ty of London and liberties thereof, should from time to time be
 mitted so to do by the court of mayor and aldermen of the said
 ty for the time being, and under such restrictions and limitations
 r honest and good behaviour as that court should think fit and
 asonable: And it was further enacted by the said act, that if any
 rson or persons from and after the determination of the then
 resent sessions of parliament, should take upon him to act as a
 roker, or employ any other under him to act as such within the
 ne city or liberties, not being admitted as *aforsaid*, every such
 rson or persons so offending should forfeit and pay to the use of
 e mayor, and commonalty, and citizens of the said city, for every
 ch offence, the sum of twenty-five pounds to be recovered by
 ction of debt in the name of the chamberlain of the said city in any
 ourt of record of the said lady the queen, in which no protection,
 soign or wager of law should be allowed or any more than one
 mparlance, as in and by the said act, amongst other things, it
 both and may more fully appear: And the said John Bosworth in
 act faith, that after the determination of the said session of parlia-
 ment, to wit, the eleventh of May 1742, he the said John Bos-
 worth was, and ever since hath been, and now is, chamberlain of
 the

out of the court of our lord the now king, before the king himself, the said court being then and still at Westminster, in the county of Middlesex, *a certain writ* of our lord the now king called a *latitat against the said defendant*, directed to the then sheriff of the county of Surry, by which said writ our said lord the now king commanded the said sheriff of Surry aforesaid, that he should take the said sheriff if he might be found in his bailiwick, and safely keep him so that he might have his body before our said lord the king, at Westminster, *on Saturday next after the morrow of All Souls then next following*, to answer to said plaintiff in a plea of trespass, and that said sheriff should then have there that writ, which said writ he said plaintiff sued forth out of said court of our said lord the king, before the king himself, with intent to compel the appearance of said defendant at the return of said writ, in said court here, and that said plaintiff might thereupon implead said defendant, and declare against him in the plea aforesaid, according to the course and practice of the said court, for the recovery of his debt aforesaid above demanded: *And* said plaintiff further saith, *that said defendant was afterwards*, and before the return of said writ, to wit, *on the said twenty-ninth day of July, in the second year aforesaid*, at Kingston, in the county of Surry aforesaid, in due manner *served with a copy of said writ*, according to the form of the statute in such case made and provided; and that said defendant afterwards, at the return of said writ, to wit, on Saturday next after the morrow of All Souls now last past, appeared in said court here to the writ aforesaid, by said P. R. his attorney, at the suit of said plaintiff, and that thereupon said plaintiff in this present Michaelmas term, to wit, on said Saturday next after the morrow of All Souls now last past, according to his intention aforesaid, exhibited his aforesaid bill against said defendant in form aforesaid, for the recovery of his debt aforesaid above demanded; and this he is ready to verify, wherefore he prays judgment, and that his said bill may be adjudged good, and that said defendant may answer over thereto, &c.

J. YATES.

Rejoinder,

shewing the time of issuing of the writ of G. L. and that it was prior to and without knowledge of plaintiff.

And said defendant saith, that after the committing of the said supposed offences in said bill mentioned, and long before the day time of issuing of exhibiting the said respective bills of said plaintiff and G. Lake, that is to say, *on said thirtieth day of June, in said second year of the reign, &c.* the said G. Lake sued forth out of the said court of our said lord the king, before the king himself, the said court then and still being held at Westminster, in the said county of Middlesex, *a certain writ* of our said lord the king called a *latitat*, against him said defendant, directed to the then sheriff of the county of Surry, by which said writ our said lord the now king commanded said then sheriff of said county of Surry, that he should take him said defendant if he might be found in his bailiwick, and safely keep him, so that he might have his body before our said lord the king at Westminster, *on Saturday next after the morrow of All Souls then next ensuing*, to answer to said George Lake,

a pl.

plea of trespass, and that said sheriff should then have there that writ: *And* said defendant further saith, that afterwards, and before the return of said writ, *and before said defendant was served with a copy of said writ so sued out by said plaintiff, or had notice of that writ's being sued, or being intended to be sued out, to wit, on the seventh day of July, in the second year aforesaid, at Kingston aforesaid, in said county of Surry, he said defendant was served with a copy of said writ so sued out by said George Lake, with an English notice at the bottom thereof, according to the form of the statute in such case made and provided, and that in obedience to said writ, he the said defendant, according to the course and practice of said court, at the return of said writ so sued out by said George L. to wit, on Saturday next after the morrow of All Souls now last past, appeared in the said court here to said writ sued out by said G. L. and that thereupon said George Lake in the term of St. Michael, to wit, on Saturday next after the morrow of All Souls now last past, exhibited his bill against said defendants in form aforesaid, for the recovery of said supposed debt by him demanded as aforesaid; and this said defendant is ready to verify, wherefore as before he prays judgment, &c. and that the same may be quashed, &c.*

J. NASH.

And said plaintiff saith, that notwithstanding any thing above pleaded by said defendant, the aforesaid bill of him said plaintiff ought not to be quashed, because he says, that by the course and practice of the court of our said lord the king, before the king himself, writs of *latitat* sued out before the end of any term are tested as of the term next preceding the time of their being so sued; but said plaintiff further saith, that said writ of *latitat* above pleaded to have been sued forth out of the said court here by the above-named G. L. although the same was attested on the thirtieth day of June aforesaid, in said second year of his present majesty's reign, being the last day of Trinity term in that year, was really and in fact sued forth on the thirtieth day of July in the same year, and not before, and that the aforesaid writ of *latitat* which he said plaintiff sued forth out of our court of our lord the king here against said defendants as aforesaid, and which was tested on the thirtieth day of June aforesaid, in said second year of his present majesty's reign, was really and in fact sued out by the said plaintiff against said defendant for the cause aforesaid, long before said writ of *latitat* in said rejoinder mentioned was really and truly sued out by said G. that is to say, on the first day of July, in said second year of his said majesty's reign, to wit, at Ivelchester aforesaid; and that he said plaintiff afterwards, and with all convenient speed, to wit, on the day and year in the above replication for that purpose mentioned, did serve a copy of his said writ on said defendant, and on this appearance of said defendant for the cause and in the manner aforesaid; and this he said defendant is ready to verify, wherefore he prays judgment that his aforesaid bill may be adjudged good, and that said defendants may answer over thereto.

J. YATES.

And

Surrejoinder, that writs issuing in vacation are tested as of the last day of the preceding term; but tho' G. L.'s writ was so tested, it was in fact sued out afterwards, and after plaintiff's.

Demurrer to
surrejoinder.

Causes.

Departure.

Hath not tra-
versed suing out
writ by G. L.

And said defendant saith, that said plea of said plaintiff by way of surrejoinder above pleaded, and the matters therein contained, are not sufficient in law to maintain said bill of said plaintiff against him said defendant, to which said surrejoinder, in manner the same is above pleaded and set forth, said defendant is not under any necessity nor in anywise bound by the law of the land to answer; and this said defendant is ready to verify; wherefore for want of a sufficient surrejoinder in this behalf, said defendant as before prays judgment of said bill of said plaintiff, and that the same may be quashed, &c. and for causes of demurrer in law, according to the form of the statute in such case made and provided; and defendant sets down and shews to the court here the cause following, to wit, for that said surrejoinder does not sustain the above replication of said plaintiff, but is a departure therefrom in this, that by said replication of said plaintiff, in order to maintain a priority of suit, hath pleaded and insisted that he sued out a *latitat* in this cause against said defendant on the *thirtieth day of June*, in the second year of the reign of his present majesty, and yet by his said surrejoinder he hath insisted that such writ of *latitat* was sued out at a different time, to wit, on the *first day of July*, in the second year aforesaid; and also for that said plaintiff hath not traversed or denied the service of the said writ of *latitat* sued out by said G. L. to be before the service of said writ of *latitat* sued out by said plaintiff, as he said defendant hath by his said rejoinder above alledged, and the said rejoinder is in other respects uncertain, insufficient, and informal, &c.

J. NASH.

Joinder in said
demurrer.

And said plaintiff prays a day to imparl to said demurrer, and it is granted him, &c. and thereupon a day is given to the parties aforesaid, to come before our lord the king, at Westminster, until Wednesday next after fifteen days of Easter, that is to say, for said plaintiff to imparl to said demurrer, and then to join in demurrer thereto, at which day before our lord the king, at Westminster, came the parties aforesaid, by their attornies aforesaid, and said plaintiff saith, that said plea of said plaintiff by way of surrejoinder above pleaded, and the matters therein contained are sufficient in law to maintain said bill of said plaintiff to be good against said defendant, which said surrejoinder, and the matters therein contained, said plaintiff is ready to verify, and prove as the court shall award; and because said plaintiff hath not answered said surrejoinder, nor denied the same as plaintiff as before prays judgment, and that said bill may be adjudged good, and that said defendant may answer over thereto; but because the court of our lord the king here is not yet advised what judgment to give in the premises, a day is therefore given to the parties aforesaid, to come before our lord the king, at Westminster, until next, after to hear judgment thereon, for that the court of our said lord the king here is not yet advised thereof, &c.

At

t which day came as well said plaintiff, by his attorney afore- Judgment
as said defendant by his attorney before named, before our thereon for
the king, at Westminster, but because, &c. [there was ano- plaintiff of res-
continuance the same as the last] at which day came as well penderit ouster.
plaintiff, by his attorney aforesaid, as said defendant by his attor-
above-named, before our lord the king, at Westminster, where-
all and singular the premises having been seen and here fully
stood by the court of our said lord the king, and mature de-
cision being thereupon had, for that it appears to this court
said plea of said plaintiff by way of surrejoinder above pleaded,
the matters therein contained, are sufficient in law to main-
the said bill against said defendant, it is considered by the same
t here, that the said defendant have a further day to plead in
to said declaration of said plaintiff, and a further day is here
by said court of our said lord the king, before the king him-
o said parties, until next after to plead to said declara-
of said plaintiff, at which said day as well said plaintiff, by his
ney aforesaid, as also said defendant, by his attorney above-
ed, appeared before our sovereign lord the king, at Westmin-
and said defendant, by his attorney, defends the wrong and
y, when, &c. and so for that, &c.

IDDLESEX, to wit. W. J. late of, &c. was summoned Declaration in
swer to J. A. of a plea that he render to him the sum of one debt against a
red and sixty two pounds of lawful, &c. which he the said sheriff's officer
iam owes to him, and unjustly detains, &c. and whereupon for extortion.
aid J. A. by A. B. his attorney, says, that one J. W.
forth out of the court of our lord the king of the bench, at
minster, a certain writ of our said lord the king against the
J. A. at the suit of him the said J. W. called a *capias ad re-*
rendum, directed to the sheriff of Middlesex, by which said writ
aid lord the king commanded the said sheriff that he should take
aid J. A. if he should be found in his bailiwick, and him safely
, so that he might have his body before our said lord the
s justices, at Westminster, on the morrow of All Souls, to
er the said J. W. in a plea, wherefore with force and arms the
of the said J. W. at Westminster, he broke, and other
gs to him did, to the great damage of the said J. W. and
ist our said lord the king's peace, and also that the said J. A.
t answer the said J. W. according to the custom of our said
the king's court of common bench, in a certain plea of tref-
on the case upon promises, to the damage of the said J. W.
irty pounds, and that he should have there then that writ,
h said writ, before the delivery thereof to the said sheriff, was
sed, requiring bail from the said J. A. for ten pounds, by
e of an affidavit of the cause of action of the said J. W. against
aid J. A. in that behalf, filed of record in the said court of our
lord the king of the bench, at Westminster, according to the
of the statute in such case made and provided, which said
writ

writ so indorsed as aforesaid, afterwards, and before the return of the said writ, afterwards, to wit, on, &c. at, &c. was delivered to A. B. and C. D. esquires, the said A. B. and C. D. then and until, and at and after the return of the said writ, being sheriff of the said county of Middlesex, to be executed in due form of law, by virtue of which said writ the said A. B. and C. D. so then being sheriff of the said county of Middlesex as aforesaid, and afterwards, and before the return of the said writ, to wit, on, &c. for having execution of the said writ, duly made his certain warrant in writing, directed to the said W. J. who then and from thence until and at and after the return of the said writ, was one of the bailiffs of the then sheriff of the said county of Middlesex, by which said warrant the said then sheriff of the county of Middlesex, commanded the said W. J. that he should take the said J. A. if he should be found in his the said sheriff's bailiwick, and him safely keep, so that he the said then sheriff might have his body before our said lord the king's justices, at Westminster, at the return of the said writ, to answer to the said J. W. according to the exigence of the said writ, which said warrant was also marked for bail for ten pounds, and which said warrant so marked as aforesaid, afterwards, and before the return of the said writ, to wit, on, &c. at, &c. was delivered to the said W. J. he the said W. J. so then and until and after the return of the same writ, being one of the bailiffs of the said then sheriff of Middlesex, to be executed in due form of law, by virtue of which said warrant the said W. J. so being one of the bailiffs of the said then sheriff of Middlesex as aforesaid, afterwards, and before the return of the said writ, to wit, on, &c. took and arrested the said J. A. by his body for the cause aforesaid, at the suit of the said J. W. and then and there had him the said J. A. in his custody: And the said J. A. further says, that the said W. J. × having so taken and arrested the said J. A. by his body for the cause aforesaid, and so having him in custody aforesaid, by virtue of the said writ and warrant, the said W. J. so then being such bailiff as aforesaid, he the said W. J. on, &c. at, &c. demanded, took, and received of and from the said J. A. the sum of *nineteen shillings and sixpence for waiting till the said J. A. had given bail to the said writ*, which said sum of money is demanded, taken, and received by the said W. J. of the said J. A. for the cause aforesaid, in manner aforesaid, then and there was and is a greater sum of money than at that time of taking thereof was by law allowed to be taken or demanded on that occasion, contrary to the form of the statute in such case made and provided, whereby he the said W. J. so then being one, &c. according to the form of, &c. forfeited for his said offence the sum of fifty pounds; and whereby and by force of the statute in that case made and provided, an action hath accrued to the said J. A. to demand and have of and from the said W. J. the said fifty pounds so forfeited as aforesaid, parcel of the said one hundred and sixty-two pounds above demanded: And whereas, &c. [2d Count, exactly the same as the last, only instead of the words in *Italics*, say:

2d Count.

“ ten

ten shillings and sixpence for detaining him the said W. J.”]:
 and whereas, &c. [3d Count like the former, 'only instead of the
 words in Italic say, one pound seventeen shillings as and for the
 he expences of him the said J. A. during the time he the said
 . A. was so under arrest and in custody as aforesaid”]: And
 whereas, &c. [the same as the last, till you come to this mark x,
 then conclude as follows]: so being a bailiff, and an officer of
 he said then sheriff of the said county of Middlesex, and so having
 him the said J. A. in his custody as aforesaid, he the said W. J.
 afterwards, to wit, on, &c. took of and from the said J. A. C. A.
 and C. H. a certain bail bond or obligation for the appearance of
 he said J. A. at the return of the said last-mentioned writ, ac-
 cording to the exigence thereof: And the said J. A. further says,
 that the said W. J. so being, &c. took of and from the said J. A.
 the sum of twenty shillings for the making of the said obligation,
 which said sum of money so demanded, &c. &c. [as before]: 5th
 Count, money had and received: 6th Count, money paid, &c.;
 et, &c.; common conclusion in debt.] V. LAWES.

Nil debet, &c. Therefore the sheriff is commanded that he
 cause to come here, on, &c. twelve, &c. by whom, &c. and who
 either, &c. to recognize, &c. because as well, &c.

LONDON, to wit. William Morfs, who sues in this behalf
 well for our present sovereign lord the king as for himself, com-
 plains of Thomas Swift, being, &c. who as well, &c. of four
 hundred pounds of lawful money of Great Britain, which he owes
 them, and unjustly detains, &c. for this, that the said Tho-
 mas after the twenty-eighth day of May, in the year of Our Lord
 1739, to wit, upon the twenty-fifth day of May, in the year of
 our Lord 1750, at London, to wit, in the parish of the Blessed
 Mary of the Arches, in the ward of Cheap, did unlawfully and
 contrary to the form of the statutes in such cases lately made and
 provided, mark and stamp, and cause and procure to be marked and
 stamped, a certain piece of wrought plate of silver, to wit, a sil-
 ver haft for a knife, with a counterfeit mark, stamp, and impres-
 sion to resemble the impression of one of the marks and stamps of
 the Company of Goldsmiths in London, that is to say, the lion
 passant, then and long before used by the said company, in pur-
 suance of the said statute in that case made and provided, by reason
 thereof the said Thomas, by force of the said statute in that case
 made and provided, hath forfeited the sum of one hundred pounds
 for the said offence, one moiety thereof to our said lord the king,
 and the other moiety thereof to the said William, who as well, &c.
 and whereby and by force of the statute in that case made and pro-
 vided, an action hath accrued to the said William, who as well,
 &c. and to demand and have as well for our said lord the king as
 for himself of the said Thomas, the said one hundred pounds, par-
 cel of the four hundred pounds above demanded: And the said
 William,

For a counter-
 feit stamp on
 plate.
 12. Geo. 2. c.
 26. f. 8. pe-
 nalty 100l.

3d Count.

William, who as well, &c. further saith, that the said Thomas after, &c. and at, &c. did unlawfully and contrary to the form of the said statute, cast, forge, and counterfeit, and cause and procure to be cast, forged, and counterfeited, a mark, stamp, and impression to resemble a mark, stamp, and impression to be made with a mark and stamp of the said Company of Goldsmiths, in London, then and long before used by the said Company of Goldsmiths, in London, in pursuance of the said statute, by reason whereof, &c.: Did unlawfully and contrary to the form of the said statute sell and manufacture of silver, to wit, another silver haft for a knife, with a forged and counterfeited mark, stamp, and impression thereon put to resemble a mark, stamp, and impression of the said Company of Goldsmiths, in London, he the said Thomas then and there knowing the said mark, stamp, and impression on the said manufacture last above mentioned to be forged and counterfeited, by reason whereof, &c.

For selling wine
by retail with-
out licence.

12. Car. 2. c.
15. s. 1.

MIDDLESEX, to wit. William Bennett, who prosecutes in this behalf as well for our sovereign lord the king as for himself, complains of John Smith, being in the custody of the marshal, &c. of a plea that he render to our said lord the king and to the said William, who prosecutes as well for his said majesty as for himself, two hundred pounds of lawful money, &c. which to the said lord the king and to the aforesaid William, who prosecutes as well for his said majesty as for himself, he oweth and unjustly detaineth; for this, that the said John at forty several times between the tenth day of February, in the twenty-ninth year of the reign of the said lord the king, and the tenth day of January, in the thirtieth year of his reign, at Westminster, in the county of Middlesex, hath sold and uttered by retail, that is to say, by the bottle, commonly called the quart bottle, the quart, the pint, and the half pint, to several persons whose names to the said W. are wholly unknown, two several bottles, commonly called quart bottles, of red port wine, two several quarts of other red wine, two several quarts of other red port wine, two several quarts of white wine, two several quarts of white port wine, four several pints of other red wine, four several pints of other red port wine, two several pints of Sherry wine, two several pints of Madeira, two several pints of other white wine, four several half pints of other red wine, four several half pints of other red port wine, four several half pints of Mountain wine, and two several half pints of other white wine; all which wines were sold by the aforesaid John, to be drank and spent at Westminster aforesaid, in the county aforesaid, he the said John not being at any of the times of his selling and uttering the said wines, or any of them by retail as aforesaid, authorized and enabled in manner and form aforesaid, as by the statute in such case made and provided is prescribed and appointed, contrary to the form and effect of the said statute, whereby the aforesaid John by force

force of the said statute, hath forfeited to the said lord the king and to the aforesaid William, two hundred pounds of, &c. to wit, the sum of five pounds for every several offence of the offences aforesaid abovementioned, whereby and by virtue of the said statute an action hath accrued to the aforesaid William, who prosecutes as well for his said majesty as for himself, to receive and have from the aforesaid John, as well for the same lord the king as for himself the said W. the aforesaid two hundred pounds so as aforesaid forfeited; notwithstanding the aforesaid John, though often requested to pay the aforesaid two hundred pounds to the said lord the king and to the aforesaid William, hath not paid, but hitherto denied, and now doth deny so to do, to the damage of him the said William of fifty pounds, and thereupon as well for our said lord the king as for himself he bringeth suit, &c.

MIDDLESEX, to wit. J. F. who sues in this particular as well for the poor of the parish of St. Martin's in the Fields as for himself, complains of Adam Dale being, &c. of a plea that he render to, &c. eighty pounds, which, &c.; for that the said Adam after the first day of May 1711, to wit, on the first day of January 1738, at the parliament aforesaid, in the said county of Middlesex, was indebted to one Thomas Smith in twenty pounds lawful, &c. for money which he the said Thomas on the same day and year there had lost to the said Adam at one and the same time, at a certain play with box and dice called hazard, and which the said Thomas had then and there paid to the said Adam, whereby and by force of the statute made in the ninth year of our sovereign lady Anne, late queen of Great Britain, &c. at Westminster, in the county of Middlesex aforesaid, intituled, "An Act for the better preventing of excessive and deceitful Gaming," an action hath accrued to the said Thomas to demand and have of the said Adam the said sum of twenty pounds so lost and paid, and he the said Thomas has not within the space of three months next after the losing and payment of the said twenty pounds, in anywise prosecuted the said Adam for the recovery of the said twenty pounds by him the said Thomas so lost and paid to the said Adam as aforesaid; whereby and by force of the statute, &c. an action hath accrued to the said poor, &c. eighty pounds, to wit, the said twenty pounds so lost and paid as aforesaid, and sixty pounds, being treble the value of the said twenty pounds; yet, &c.

(a) Every person losing 10l. at one sitting, or 20l. in 24 hours, may be indicted and fined five times the value.

DORSETSHIRE, to wit. Andrew Oram complains against John Reynolds, being, &c. of a plea that he render to the said Andrew twenty pounds of lawful money of Great Britain, which he owes to and unjustly detains from him, for this:—that where-
in the town and borough of Shafton, otherwise Shaftesbury, in the
more than 5l. to be convicted within two calendar months after the offence committed.

For refusing a parishioner to inspect a poor's rate. 17. Geo. 2. c. 38. s. 13. & 14. penalty not less than 20s. nor

said

said county of Dorset, now is, and from time whereof the memory of man is not to the contrary, hath been an ancient town and borough; and whereas the parish of St. Peter's, in the said county of Dorset, now is, and for all the said time whereof the memory of man is not to the contrary, hath been an ancient parish, and which time out of mind hath been partly within the said borough of Shafton, otherwise Shaftesbury, and partly out of the said borough, but in the county of Dorset aforesaid; and whereas the said Andrew on the eighteenth day of April, in the year of Our Lord 1751, and long before was, and ever since, hath been and still is an inhabitant and parishioner within the said parish of St. Peter, and without that part thereof which lies, and from time out of mind hath lain within the said borough of Shafton, otherwise Shaftesbury, that is to say, the borough aforesaid; and whereas the said John Reynolds on the same day and year aforesaid, and before and long afterwards was one of the overseers of the poor of that part of the said parish of St. Peter which lies, and time out of mind hath lain within the said borough, and during all that time was authorised to take care of the poor of that part of the said parish lying within the said borough, that is to say, at the borough aforesaid; and whereas also on the said day and year aforesaid, at the borough aforesaid, a certain rate was made for the necessary relief of the poor of that part of the said parish lying within the said borough; and the said rate afterwards, that is to say, on the twelfth day of May, in the year of Our Lord 1751, at the borough aforesaid, was allowed by John Lampard, esquire, then mayor of the said borough, and Charles Pinction, gentleman, then being two justices of the peace of our present sovereign lord the king, assigned to keep the peace of our said lord the king within the borough aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors done and committed within the said borough, one of them, to wit, the said John Lambert then being of the quorum: And the said Andrew further saith, that afterwards, to wit, on the next Sunday after the same rate was so allowed as aforesaid, that is to say, on the nineteenth day of May, in the year of Our Lord 1751, public notice was given in the said parish church of the said parish of that rate having been so allowed by the said justices, that is to say, at the borough aforesaid: And the said Andrew further saith, that the said Andrew at a seasonable time afterwards, that is to say, on the seventeenth day of November, in the year of Our Lord 1751, at the borough aforesaid, requested the said John Reynolds, then being one of the overseers as aforesaid, to permit him the said Andrew to inspect the said rate, and then and there tendered unto and offered to the said John Reynolds to pay him one shilling for the same, according to the form of the statute in such case made and provided; nevertheless the said John Reynolds not regarding the statute in such case lately made and provided, nor fearing the penalties therein contained, did not admit the said Andrew to inspect the said rate, but then and there neglected and refused so to do, contrary to the

form

of the said statute, whereby and by force of the said statute an action hath accrued to the said Andrew, to demand and have of the said John Reynolds the said twenty pounds: yet the said John Reynolds, although often requested, the said twenty pounds to the said Andrew hath not yet rendered, but hath hitherto altogether denied, and still doth deny to render the same to him, and unjustly retains the same from him, to the damage of the said Andrew of twenty pounds, and thereof he brings suit, &c. pledges, &c.

CUMBERLAND, to wit. Francis Hetherington, late of Upon 2 & 3. Ed. 6. for not setting out tithes. This action lies for an executor, but not against him, Sid. 88. 181. nor can it be brought *qui tam*. Cro. Eliz. 621. Moor 911. Hetly 404. *contra*.

Francis Hetherington, late of Cumberland, in the said county, yeoman, was summoned to answer George Louthian and Bridget his wife, of a plea that he render them thirty-four pounds, which he oweth to and unjustly detaineth from them; and whereupon the said George and Bridget, John Holme their attorney, say, that whereas the said George and Bridget, in right of the said Bridget, now are and for four years last past were owners and proprietors of all and singular the tithes of corn and grain yearly during that time growing, renewing, happening and arising within the parish of Ainstable, otherwise Ainstaple, in the said county, and the bounds and limits and habitable places thereof: And whereas also the said Francis now and for all the time aforesaid was occupier and possessor of divers, to wit, forty acres of land, with the appurtenances, lying and being within the parish aforesaid, and the bounds, limits, and habitable places of the same parish; and whereas all and singular the tithes of corn and grain yearly growing, renewing, arising, and happening in, upon, and from the said lands, with the appurtenances, for forty years next before the fourth day of November, in the second year of the reign of Edward the sixth, late king of England, and on the same fourth day of November, of which tithes were yielded and payable to the owner and proprietor of the said tithes, for the time being, in their proper kinds; and the said Francis being occupier and possessor of the said lands, with the appurtenances, for the said time in manner aforesaid, and the said George and Bridget being owners of the said tithes as aforesaid, the said Francis within the said four years now last past, to wit, the twenty-fifth day of March, in the year of Our Lord 1732, and also on the twenty-fifth day of March, in the year of Our Lord 1733, sowed the said forty acres of land with several kinds of corn and grain, to wit, with wheat, rye, barley, oats, and the like; and the said Francis afterwards, to wit, on each tenth day of September, in the respective years of Our Lord 1732, and 1733, did down, reaped, and gathered the corn and grain arising, growing, and renewing from the said corn and grain sown in the several years last-mentioned, the tithes of which said corn and grain reaped and gathered belonged to the said George and Bridget as aforesaid, and to them ought to have been paid and yielded; nevertheless the said Francis being a subject of this kingdom, well knowing all and singular the premises aforesaid, after the cutting, reaping,

The omission of these words had on demurrer, but good after verdict, Carth. 384.

Cro. El. 621.
2. Inst. 651.

reaping, and gathering together the corn and grain afore the said several years, to wit, on the twentieth day of September, in the year of Our Lord 1732, and also on the twentieth September, in the year of Our Lord 1733, took and carried the said corn and grain arising in the said respective years : said, from the several places where the same grew, and where the same ought to have been tithed, the tenth part of the said grain, or any parts thereof, from the nine parts residue by the said Francis for the tithes thereof not being divided, rated, or set out, *nor any agreement or composition for the* the said corn and grain, or any part thereof, by the said with the said George or Bridget, or either of them, being made, contrary to the form of the statute in that case made provided : And the said George and Bridget do aver, that the part of the said corn and grain not divided or set out from the parts thereof, residue as aforesaid, at the time of taking and carrying away the same of the value of eight pounds of, &c. to the parish aforesaid ; whereby and by force of the statute an action hath accrued to the said George and Bridget, to recover of the said Francis the said twenty-four pounds, the treble value of the said tenth part of the said corn and grain divided or set forth by the said Francis from the nine parts residue as aforesaid, and taken and carried away against the said Francis, of the statute aforesaid ; nevertheless the said Francis, as often requested, hath not yet rendered to the said George and Bridget the said twenty-four pounds, or any part thereof, but hitherto altogether denied, and still doth deny to render the same, wherefore they say they are damnified to the value of ten pounds and thereof they bring suit, &c. *Nil debet*, not guilty is pleaded.

No costs in this action, unless the sum recovered be more than twenty nobles. 8. & 9. V. plus damages found by the jury be less 11.

For turning water upon a coal-mine, 13. Geo. 2. c. 21. persons drowning coal pits to pay treble damages, and full costs.

———, to wit. J. B. the elder, late of M. in the said collier, was summoned to answer J. P. gentleman, of a part of the said J. P. three thousand pounds of lawful money of Great Britain, which he owes to and unjustly detains and whereupon the said J. P. by his attorney, says, the said J. P. on the seventeenth day of November, in the year of Our Lord 1742, and before was, and continually from hitherto hath been, and still is lawfully possessed of and in a coal work, or mine of coal, with the appurtenances, lying being in the parish of H. in the said county of S. ; yet the said J. B. well knowing the premises, but disregarding the statute in such case lately made and provided, after the twelfth day of November, 1740, and whilst the said J. P. was so possessed of his said coal work and mine, and mine of coal, that is to say, on the seventeenth day of November, in the said year of Our Lord 1742, lawfully, wrongfully, and maliciously did divert, and cause

diverted, water from divers, to wit, two brooks or water-courses in the parish of M. in the county aforesaid, in the said coal-work of the said J. P. against the form of the statute in such case lately made and provided: And the said J. P. saith, that his said coal-work, by reason thereof, was so greatly overflowed with water, that he the said J. P. for a long space of time, that is to say, from the time of the same being so overflowed as aforesaid, until the day of issuing the original writ of the said J. P. could not work his said coal mine, but during that time lost and was deprived of the profit, benefit, and advantage of his said coal-work, and mine of coal, and was compelled and under a necessity to expend and lay out divers large sums of money in endeavouring to clear out the said water, and to recover and obtain the use and benefit of his said coal-work, and mine of coal: And the said J. P. saith, that by reason of the premises he was injured, and sustained damage to the value of one thousand pounds of lawful money of this realm, that is to say, at the parish of H. aforesaid, whereby and by force of the said statute, an action hath accrued to the said J. P. to demand and have from the said J. B. the said sum of three thousand pounds, being treble the said damages; nevertheless the said J. B. although often requested, hath not paid to the said J. P. the aforesaid three thousand pounds, or any part thereof, but hath hitherto refused to pay the same to him, to the damage of the said J. P. of forty pounds, and therefore he brings suit, &c.

MIDDLESEX, to wit. Richard Dacres, who sues as well for our sovereign lord the king as for himself in this behalf, complains of Henry Burr, being in the custody of the marshal of the marshalsea, &c. in a plea that he render to our said lord the king and to the said Richard, who as well, &c. eighty pounds, which he owes to and unjustly detains from them, for this, the said Henry not regarding the statute in such cases lately made and provided, nor fearing the penalty therein contained, after the twenty-fifth day of March, in the year of Our Lord 1703, to wit, on the nineteenth day of October, in the year of Our Lord 1732, at Westminster, in the county of Middlesex, wrote and ingrossed, or caused to be written or engrossed upon a piece of parchment, part of a writing, to wit, William Stone, son of John Stone, of Mark, is, and also upon the same piece of parchment, other part of a writing, to wit, to William Weeks, of the parish of St. Mary's, in Marlborough, the same writing purporting to be, that the said William Stone put himself apprentice to the said William Weeks, for six years, in respect of which said parts of the said writing so written and ingrossed by the said Henry as aforesaid, several duties were then payable to the said now lord the king, by force of the statutes in such cases lately made and provided, and on which said piece of parchment there had been then before written other matters, to wit, another agreement of apprenticeship between other persons, in respect of which said other agreement of apprenticeship

For ingrossing indentures before stamped. 8. Ann. c. 9. §. 36, 37, 38, 39.

“ excessive increase of Horse Races, and for amending an Act made in the last Session of Parliament, entitled, “ An Act for the more effectual preventing of excessive and deceitful gaming ;” it was enacted that from and after the twenty-fourth day of June 1740, no plate, prize, sum of money, or other thing should be run for by any horse, mare, or gelding, or advertised, published, or proclaimed to be run for by any horse, mare, or gelding, unless such plate, prize, or sum of money should be of the full, real, and intrinsic value of fifty pounds or upwards, and in case any person or persons should from and after the twenty-fourth of June 1740, enter, start, or run any horse, mare, or gelding for any plate, prize, sum of money, or other thing of less value than fifty pounds, or should print, advertise, publish, or proclaim any advertisement or notice of any plate, prize, sum of money, or other thing of less value than fifty pounds as aforesaid, to be run for by any horse, mare, or gelding, every such person or persons so entering or running such horse, mare, or gelding, for such plate, prize, sum of money, or other thing of less value than fifty pounds as aforesaid, should forfeit and lose the sum of two hundred pounds, to be sued for, recovered, and disposed of in such manner as was thereafter prescribed and directed: And it was further enacted by the authority aforesaid, that all penalties and forfeitures incurred by any person or persons for any offence against that act, should be sued for and recovered by any action, bill, plaint, or information in any other of his majesty’s courts of record at Westminster, or at the assizes, and should be disposed of, one moiety thereof to the use of such persons as should so sue for the same, and the other moiety to the use of the poor of such parish or place where the offence should be committed, except one such moiety of such penalties or forfeitures as should be incurred by and recorded of any person or persons within the county of Somerset, as by the said act more fully appears: And the said Ralph, who sues as aforesaid, further says, that the said Emanuel, not regarding the said act of parliament, nor fearing the penalty therein contained, after the making of the said act, and after the twenty-fourth day of June, in the year of Our Lord 1740, mentioned in the said act, and within the space of one year before the exhibiting the bill of the said Ralph, who as well, &c. to wit, on the twenty-fifth day of March, in the year of Our Lord 1752, *within the said kingdom of England, and elsewhere than in the county of Somerset*, that is to say, in the parish of Caterick, *did enter, start, and run* a certain gelding of the said Emanuel for a certain prize of less than fifty pounds, to wit, for a saddle of the value of one guinea, against the form of the statute in such case lately made and provided; whereby and by force of the statute in such case made and provided, the said Emanuel forfeited to the poor of the said parish of Caterick, in which said parish the said offence was committed, to such person or persons who should sue for the same, the sum of two hundred pounds, and whereby and by force of the said statute an action hath accrued to the said poor of the said parish and to the said

This may be omitted.

For a sum of money under 50l. to wit, for the sum of 51. 5s. and no more.

alph, who sues as aforesaid, to demand and have of the said Emanuel for his said offence the said two hundred pounds so forfeited aforesaid; yet the said Emanuel, though often requested, hath not yet paid the said two hundred pounds to the said poor of the said parish and to the said Ralph, who sues as aforesaid, or either of them, but he to pay the same hath hitherto wholly refused, and will doth refuse, to the damage of the said Ralph of ten pounds; and therefore the said Ralph, as well for the said poor as for himself, bringeth suit, &c. [If there be more Counts]: And the said J. H. who sues as aforesaid, further saith, that the said Emanuel, notwithstanding the said act of parliament, nor fearing the penalty herein contained, after the making, &c. [as above.]

LINCOLNSHIRE, to wit. Thomas Burrial, late of, &c. Against a tenant was summoned to answer to William Bradshaw, gentleman, of a plea that he render to him forty pounds ten shillings, which he owes to and unjustly detains, &c.; and whereupon, &c.; that whereas the said Thomas, after the twenty-fourth of June 1738, to wit, on 1742, and afterwards was tenant of the said William of certain lands and tenements, to wit, one messuage, acres, with the appurtenances, at Holton-le-Clay aforesaid, by virtue of a demise thereof to him then before made, at and under the yearly rack-rent of ten guineas of lawful money of Great Britain, and by the said Thomas then holden in his possession of the said William his landlord, and at and under the yearly rack-rent aforesaid, and which said Thomas was so tenant to the said William of the lands and tenements aforesaid, to wit, on the day and year aforesaid, at Holton-le-Clay aforesaid, a declaration in ejectment for his said lands and tenements, with the appurtenances, was delivered to the said Thomas, then tenant thereof; nevertheless the said Thomas, not regarding the statute in this case lately made and provided, nor the penalty therein contained, did not forthwith give notice of the said declaration in ejectment so delivered to him as aforesaid to the said William his landlord thereof, nor his bailiff or receiver, but neglected so to do, contrary to the form of the statute in this case made and provided, by reason whereof, and by force of the said statute an action hath accrued to the said William to demand and have of the said Thomas forty pounds ten shillings, to wit, the whole of the three years rent of the said premises so holden by the said Thomas in his possession as aforesaid, at the yearly rack-rent of thirteen pounds ten shillings; nevertheless, &c.

Against a tenant for not giving notice of ejectment to his landlord.
11. Geo. 2. c. 19. s. 12. Forfeiture three year's improved or rack rent.

LINCOLNSHIRE, to wit. Thomas Burr, late of, &c. and John Burr, late of, &c. were summoned to answer George Stovin, esquire, of a plea that they render to the said George twenty-four pounds eleven shillings of lawful, &c. which they owe to him and unjustly detain, &c.; and whereupon, &c. says, that one

For assisting a tenant to remove cattle to prevent a distress.

11. Geo. 2. c. 19, s. 3. Forfeiture double the value of the goods, &c. so carried off.

DEBT, &c. (ASSITING TENANT to REMOVE, &c.

Henry Wildbore, on the feast of the Annunciation of the Blessed Virgin Mary 1746, and for half a year and more next before that feast, and afterwards held and enjoyed all that messuage, house, &c. of the said G. S. as tenant thereof under a certain demise to him thereof made, at the yearly rent of thirty-five pounds, payable half-yearly, to wit, at the feast of St. Michael the Archangel and the Annunciation of the Blessed Virgin Mary by equal portions, and during all that time held the same of the said G. S. as tenant thereof at the rent aforesaid: And the said G. S. further saith, that seventeen pounds ten shillings of the rent aforesaid for half a year ended at the feast of the Annunciation of the Blessed Virgin Mary 1746, were in arrear and unpaid to the said G. at that feast in that year, and that the said rent being so in arrear and unpaid to the said G. and during the continuance of the said demise, that is to say, on the first of April 1746, certain cattle, goods, and chattels, that is to say, three milch cows [here particularize the goods] were lying and being in the said demised premises, and were then subject and liable to be taken and seised by the said G. S. as a distress for the rent so in arrear and unpaid, and the said sum of seventeen pounds ten shillings of the rent aforesaid so being in arrear and unpaid to the said G. and the said cattle, goods, and chattels so being on the said demised premises, and liable to be taken by the said G. as a distress for the rent so in arrear and unpaid as aforesaid, he the said Henry, during the continuance of the said demise, to wit, the same day and year last-mentioned, did fraudulently remove and carry away, and caused to be moved and carried away the said cattle, goods, and chattels, of and from the said demised premises, with intent to prevent and hinder the said G. S. from distraining the same for the said seventeen pounds ten shillings for the rent aforesaid, so being due and in arrear as aforesaid; and the said Thomas and John not regarding the statute in such case lately made and provided, nor fearing the penalty therein contained, but disregarding the same, afterwards, to wit, on the same day and year, did wilfully and knowingly assist the said Henry in concealing the said goods and chattels fraudulently removed and conveyed of and from the said demised premises as aforesaid, to wit, at Keatly aforesaid, contrary to the form of the said statute; and the said G. S. doth aver, that the said cattle, goods, and chattels so fraudulently conveyed and removed away of and from the said demised premises, and concealed as aforesaid at the time of removing and conveying away and concealing the same as aforesaid, were of the value of twelve pounds five shillings and sixpence, to wit, at Keatly aforesaid; by reason whereof, and by force of the statute, an action hath accrued to the said G. S. to demand and have of the said Thomas and John twenty-four pounds eleven shillings, that is to say, double the value of the said cattle, goods, and chattels so fraudulently removed and conveyed away of and from the said premises concealed as aforesaid; nevertheless, &c.

LANCASHIRE, to wit. Robert Hall, who prosecutes in this behalf as well for our lord the now king as for himself, complains of Robert Oliver being, &c. of a plea that he render to the said lord the king and the said Robert, who as well, &c. one hundred pounds, which to the said lord the king and the said Robert, who as well, &c. he owes and unjustly detains, &c.; for this, that the said Robert Oliver, upon the first day of December, in the year of Our Lord 1740, and long before was, and from thence continually hitherto hath been, and still is vicar of the vicarage of the parish church of Warton, in the county of Lancaster, and that the said Robert Oliver being vicar as aforesaid of the vicarage of the said parish church, or spiritual person upon the same day and year aforesaid, and for the space of ten whole months then next following, wilfully *absented* himself from his said vicarage, and during all that time made his residence at a great distance from his said vicarage, to wit, at Preston, in the county aforesaid, against the form of the statute in such case lately made and provided, whereby the said R. O. hath forfeited the said sum of one hundred pounds, to wit, ten pounds for every month wherein the said R. O. hath so *absented* himself from his said vicarage as aforesaid, one moiety thereof to our said lord the king, and the other moiety to the said R. H. who as well, &c. whereby an action hath accrued to our said lord the king and the said R. H. who sues as aforesaid, to demand and have of the said R. O. the said one hundred pounds; yet, &c.

Against a vicar, for being absent ten months.

21 Hen.8. c.13. f. 26.

28. Hen.8. c. 13. Penalty 10l. per month to the king and informer.

And the said R. O. by G. G. his attorney, comes and defends the wrong and injury, when, &c. and saith, that the said R. H. who as well, &c. ought not to have or maintain his aforesaid action thereof against him, because he says, that one S. P. who sued as well for our sovereign lord the king as for himself heretofore, before the exhibiting of the said bill of the said R. H. who as well on the day of in the said term of St. Michael, in the fifteenth year of the reign of his present majesty, came before the barons of his majesty's exchequer at Westminster by D. D. their attorney, and brought in the same court of exchequer there his certain bill against the said R. O. by the name of R. O. clerk, present there in the said court of exchequer, the same day that he should render to our said lord the king and the said S. who as well, &c. one hundred and ten pounds, which to the said lord the king and the said S. who as well, &c. he owed and unjustly detained; for that the said R. O. on the said day of exhibiting of the said bill of the said S. P. who as well, &c. and for and during the space of eleven months then last past had been, and then was a spiritual person and beneficed, that is to say, R. O. for the whole time aforesaid had been and then was vicar of the vicarage of the parish church of Wharton, in the county aforesaid, and beneficed in the time; and the said R. O. for the space of eleven months, was not personally resident at and abiding upon his said vicarage, nor in, at, or upon any prebend or other dignity or benefice of the said R. O.

Plea, another action depending for the same offence.

Lap a lance.

Further impar-
lance.

R. O. but the said R. O. absented himself wilfully for the space of eleven months from his said vicarage, and during all the time aforesaid made his residence and abiding in another place, to wit, at Preston, in the county of Lancaster, against the form of the statute in such case lately made and provided, whereby the said R. O. had forfeited the sum of one hundred and ten pounds, that is to say, ten pounds for every month of the said eleven months wherein the said R. O. had so absented himself from his said vicarage as aforesaid, by reason whereof an action had accrued to our said lord the king and the said S. who as well, &c. to demand and have of the said R. O. one hundred and ten pounds; nevertheless the said R. O. although often requested, the one hundred and ten pounds, or any part thereof to our said lord the king and the said S. who as well, &c. had not rendered, but had altogether until then wholly refused, and did then refuse to render the same, to the damage of the said S. who, &c. twenty pounds; and thereupon as well for our said lord the king as for himself he brought suit, &c. and then and there found pledges to prosecute, to wit, John Doe and Richard Ree; and the said R. O. present there in the said court of exchequer, by Thomas Frank his attorney, came and defended the wrong and injury, when, &c. and prayedoyer of the said bill of the said S. P. who as well, &c. and it was read to him, which being read and heard, the said R. O. saving to himself all and all manner of exceptions to the said bill of the said S. P. who as well, &c. said, that he was not then advised to answer the said S. who as well, &c. in the premises, and prayed leave to imparl thereto until the octave of St. Hilary then next to come, which was by the court then and there granted to him, and the same day was given to the said Samuel, who as well, &c. there, &c. at which day came in the said court of exchequer as well the said Samuel, who as well, &c. the said R. O. by their attornies as aforesaid: And the said R. O. said, that he was not then advised to answer the same, who as well, &c. in the premises, and further prayed leave to imparl to the said bill of the said Samuel, who as well, &c. until fifteen days from the day of Easter then next to come, which was by the court then granted, and the same day was given to the said Samuel, who as well, &c. there, &c. which said plea is still depending in his majesty's court of exchequer undetermined, as by the said record and pleadings thereof now remaining in the said court of Exchequer at Westminster, it doth more fully appear, and this he is ready to verify; wherefore he prays judgment if the said R. H. who as well, &c. ought to have or maintain his said action against him; with this, that the said R. O. doth aver, that the said offence and cause of action in the said bill of the said S. P. who as well, &c. above contained and specified, and the said offence and cause of action in the said bill of the said R. H. who as well, &c. above complained and specified, are one and the same offence and cause of action, and not other or different, &c.

SUSSEX, to wit. W. C. late of, &c. flax-dresser, was summoned to answer J. J. the elder, of a plea that he render to him thirty-five pounds of lawful, &c. which he owes to him and unjustly detains from him, &c.; whereupon the said J. by his attorney, says, that the said W. after the first of June 1765, to wit, the eighth of June A. D. 1765, did take divers fish, to wit, one salmon, ten trout, one hundred pike, one hundred carp, one hundred gudgeons, one hundred roach, one hundred tench, and one hundred eels, in a certain *pond* of the said J. situate and being in the parish of T. in the county of S. (the said *pond* not being in any park or *paddock*, or in any garden, orchard, or yard adjoining or belonging to any dwelling-house, but in certain inclosed grounds which then was the property of the said J.) he the said W. not having any just right or claim to *take* the said fish, whereby and by force of the statute in such case lately made and provided, an action hath accrued to the said J. to demand and have of the said W. five pounds, parcel of the said thirty-five pounds above demanded. [2d Count, altering the word *take* for *kill*]: And the said J. further saith, that the said W. after the said first of June 1765, on the eighth of June A. D. 1765, did *destroy* divers other fish, to wit, ten other salmon, &c. in a certain *her pond* of the said J. situate and being in the parish of T. aforesaid, in the county of S. (the said last-mentioned pond not being in any park or paddock, or in any garden, orchard, or yard adjoining to any dwelling-house, but in certain inclosed grounds which was then the property of the said J.) whereby and by force of the said statute in such case made and provided, an action hath accrued to the said J. to demand and have of the said W. other five pounds, further parcel of the said thirty-five pounds above demanded. [4th Count, for *taking* fish in a pool.] [5th Count, for *destroying* in a pool.] And the said J. further saith, that the said W. after the said first of June 1765, to wit, on the said eighth of June A. D. 1765, did take divers other fish, to wit, ten other salmon, &c. in a certain *stream* of the said J. situate and being at the parish of T. aforesaid, in the said county of S. (the said stream not being in any park or paddock, or in any garden, orchard, or yard adjoining or belonging to any dwelling-house, but in certain inclosed grounds which then was the property of the said J.) he the said W. not having any just right to take the said last-mentioned fish; whereby and by force of the said statute in such case lately made and provided, an action hath accrued to the said J. to demand and have of the said W. other five pounds, residue of the said thirty-five pounds above demanded; yet the said W. although often requested, hath not paid the said thirty-five pounds, nor any part thereof, to the said J. but to pay the same to the said W. he the said W. hath hitherto altogether refused, and still doth refuse, to the damage of the said J. of ten pounds, and therefore he brings suit, &c.

On stat. 5. Geo. 3. c. 15. for fishing in a pool of plaintiff's.

3d Count,

6th Count, for taking fish in a stream.

WARWICK-

Declaration for
bribery at an
election for a
borough lying
within two
counties.

WARWICKSHIRE, to wit. P. complains of D. being, &c. of a plea that he render to the said P. two thousand five hundred pounds of, &c. which he owes to and unjustly detains from him: For that whereas the borough of Tamworth, lying partly within the county of Warwickshire aforesaid, and partly within the county of Stafford, is an ancient borough, and for a long space of time two burgeses of the said borough have been elected and sent, and have used and been accustomed, and of right ought to be elected and sent to serve as burgeses for the same borough in the parliament of this kingdom: And whereas on the twenty-first of March, in the first year of the reign of our sovereign lord George the third, king of Great Britain, &c. a certain writ of our said lord the king under the great seal of Great Britain, issued out of his said majesty's court of chancery, the said court then and still being at Westminster, in the county of Middlesex, directed to the sheriff of the said county of Warwick, by which said writ our said lord the king, reciting, that whereas by advice and assent of his said majesty's council for certain arduous and certain affairs concerning his said majesty, the state, and affairs of his said kingdom of Great Britain, and the church, our said lord the king had ordered a certain parliament to be holden at his said majesty's city of Westminster on the nineteenth of May then next ensuing, and there to treat and have conference with the prelates, great men, and peers of his majesty's realm, our said lord the king by the said writ commanded and strictly enjoined the said sheriff, that proclamation being made of the day and place aforesaid in the next county court of the said sheriff, to be holden after the receipt of that his majesty's writ, two knights of the most fit and discreet of the said county, girt with swords, and every city of the same county two citizens, and of every borough in the same county two burgeses of the most sufficient and discreet, freely and indifferently by those who at such proclamation should be present, according to the form of the statutes in that case made and provided, the said sheriff should cause to be elected, and the names of those knights, citizens, and burgeses, so to be elected, whether they should be present or absent, the said sheriff should cause to be inserted in indentures to be thereupon made between the said sheriff and those who should be present at such election; and thereupon, at the day and place aforesaid, the said sheriff should cause to come in such manner that the said knights for themselves, and the commonalty of the same county, and the said citizens and burgeses, masters, for themselves and the commonalty of the cities and boroughs respectively, might have from them full and sufficient power to do and consent to those things which then and there by the common counsel of his said majesty's kingdom (by the blessing of God) should happen to be ordained upon the aforesaid affairs, so that for want of such power, or through the improvident election of the said knights, citizens, and burgeses the aforesaid affairs in no wise remained unfinished, willing nevertheless that neither the said sheriff, nor any other sheriff of his majesty's kingdom, should be in anywise elected,

BRIBERY AT AN ELECTION.

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ected, and the election in the said sheriff's full county, so distinctly, and so openly under the said sheriff's seal and the seals of those who should be present at such election, the said sheriff should certify to our said lord the king in his chancery at the day and place aforesaid, without delay remitting to our said lord the king the part of the aforesaid indentures annexed to the said writ, together with the said writ: And whereas on the twenty-first of March, in the first year of his said majesty's reign, a certain other writ of our said lord the king, under the great seal of Great Britain, issued out of his said majesty's court of chancery, the said court sitting at Westminster in the said county of Middlesex, directed to the said sheriff of his majesty's county of Stafford, by which said writ our said lord the king, reciting, that whereas by the advice and assent of his said majesty's council, for certain arduous and urgent affairs concerning his said majesty, and the state and defence of his kingdom of Great Britain, and the church, our said lord the king had ordered a certain parliament to be holden at his majesty's city of Westminster, on the nineteenth of May then next ensuing, and there to treat and have conference with the prelates, great men, and peers of his majesty's realm, our said lord the king, by the said writ commanded and strictly enjoined the said sheriff, that proclamation being made of the day and place aforesaid in the next county court of the said sheriff, to be holden after the receipt of that his majesty's writ, two knights of the most fit and discreet of the said county, girt with swords, and of every town of the same county two citizens, and of every borough in the same county two burgesses of the most sufficient and discreet freely and indifferently by those who at such proclamation should be present, according to the form of the statute in that case lately made and provided, the said sheriff should cause to be elected, and the names of those knights, citizens, and burgesses, so to be elected, whether they should be present or absent, the said sheriffs should cause to be inserted in certain indentures so thereupon made between the said sheriff and those who should be present at such election, and then, at the day and place aforesaid, the said sheriffs should cause to come in such manner that the said knights for themselves and the commonalty of the same county, and the said citizens and burgesses, masters, and the commonalty of the said towns and boroughs respectively might have from them full and sufficient power to do and consent to those things which then and there by the common counsel of his said majesty's kingdom; (by the blessing of God) should happen to be ordained upon the aforesaid affairs, so that for want of such power, or through an improper election of the said knights, citizens, or burgesses, the aforesaid affairs might in nowise remain unfinished, willing nevertheless that neither the said sheriff, nor any other sheriff of his majesty's kingdom should be in anywise elected, and the election in the said sheriff's full county so made distinctly and openly under the said sheriff's seal and the seals of those who should be present at such election, the said sheriff should certify to our said lord the king in his chancery at the day and

DEBT ON PENAL STATUTES.

and place aforesaid, without delay remitting to our said lord the king one part of the aforesaid indentures annexed to the said writ, together with the said writ: And whereas afterwards, and before the return of the said writs, on the twenty-third day of March, in the said first year of the reign of our lord the present king, the said writ so directed to the sheriff of the said county of W. was delivered to Andrew Hackett the younger, esquire, who then was and still is sheriff of the said county of W. and the said other writ so directed to the sheriff of the said county of Stafford, was also then delivered to Jeremiah Smith, esquire, who then was and still is sheriff of the said county of Stafford, to be respectively executed in due form of law, to wit, at Tamworth aforesaid, in that part of the said borough which lies within the said county of Warwick, by virtue of which said respective writs the said respective sheriffs afterwards, and before the return thereof, to wit, on the said twenty-third of March, in the first year aforesaid, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which lies within the county of W. aforesaid, made their several precepts in writing, sealed with the seals of their respective offices of sheriffs, directed to the bailiffs and burgessees of the borough of Tamworth aforesaid, of and for the election within the said borough of two burgessees of the same borough, according to the forms and effects of the said writs, by virtue of which said precepts afterwards, and before the return thereof, to wit, on the thirty-first of March, in the said first year of the reign of his present majesty, at the borough of Tamworth aforesaid, the election of two burgessees of the said borough to serve as burgessees for the said borough in the then next parliament to be holden as aforesaid, was had and made, before which election, and at the time when the offence next hereinafter mentioned was committed by the said defendant, from the thirtieth of March, in the first year aforesaid, the right honourable G. B. Villiers, commonly called Lord Villiers, sir Robert Burdett, baronet, and Simon Lutterell, esquire, candidates, that of them two might be elected to serve as burgessees for the said borough in the aforesaid year, next parliament, and the said G. B. V. sir R. B. and S. L. remained and continued candidates for the said borough until and at the time of the said election: And the said plaintiff further says, that the said defendant, not regarding the statute in such case made and provided, nor fearing the penalties therein contained, after the twenty-fourth of June 1729, and after the issuing of the writs and precepts aforesaid, and before the said election of burgessees for the said borough, and whilst the said G. B. V. and sir R. B. and S. L. were candidates as aforesaid, to wit, on the thirtieth of March, in the first year of the reign of our said lord the now king, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which lies within the county of Warwick aforesaid, he the said defendant did corrupt one William Moore, who then and there and at the time of the said election had a right to vote in that election, to give his vote in that election for the said G. B. V. and sir R. B. by a corrupt gift

gift which the said defendant then and there made and delivered to
 the said W. M. of a large sum of money, to wit, five pounds ten
 shillings in money, as and for a gift or reward for him the said
 William Moore to give his vote in the said election for the said
 G. B. V. and sir R. B. contrary to the form of the statute in such
 case lately made and provided; whereby and by force of the said
 statute an action hath accrued to the said plaintiff to demand and
 have from the said defendant for his said offence five hundred
 pounds, parcel of the said two thousand five hundred pounds above
 demanded: And the said plaintiff further says, that afterwards, and ad Count.
 before the said election for burgesses for the said borough, and
 whilst the said G. B. V. sir R. B. and S. L. were candidates as
 aforesaid, to wit, on the thirtieth of March, in the first year of
 the reign of his present majesty, at the borough of Tamworth
 aforesaid, that is to say, in that part of the said borough which lies
 within the said county of Warwick, he the said defendant, disre-
 garding the statute aforesaid, did corrupt one William Moore,
 who then and there, and at the time of the said election had a right
 to vote in that election, to give his vote in the said election for the
 said G. B. V. and sir R. B. by a corrupt agreement then and there
 made by the said defendants to and with said W. M. that he the
 said defendant would give to the said W. M. a large sum of money,
 to wit, the sum of five pounds ten shillings, as a gift or reward
 to the said W. M. for his giving his vote in that election for the
 said G. B. V. and the said sir R. B. contrary to the form of the statute
 in such case lately made and provided; whereby and by force of
 the statute an action hath accrued to the said W. S. to demand and
 have of the said W. N. for his said last-mentioned offence other
 five hundred pounds, parcel of the said two thousand five hundred
 pounds above demanded: And the said W. S. further says, that
 afterwards, and before the said election of burgesses to serve for
 the said borough of Tamworth in the said then next parliament to
 be holden as aforesaid, and whilst the right honourable G. B. V.
 commonly called Lord Villers, the said sir Robert B. and S. L.
 were candidates as aforesaid, to wit, the thirtieth of March, in the
 first year of his said present majesty, at the borough of Tamworth
 aforesaid, that is to say, in that part of the said borough which
 was within the county of Warwick aforesaid, he the said W. N.
 did corrupt one William Moore, who then and there and at the
 time of the said election had a right to vote in the said election, to
 give his vote in that election for the said G. B. V. and sir R. B.
 by a corrupt agreement then and there made by the said W. N.
 with the said W. M. that he the said W. N. would give to the said
 W. M. a large sum of money, to wit, the sum of five pounds ten
 shillings in money, and in lieu thereof accept from the said W. M.
 a promissory note for the payment of five guineas to him the said
 W. N. and that the said W. N. would deliver to the said Wil-
 liam Moore on his voting in that election for the aforesaid G. B.
 and sir R. B. the said promissory note, which was accordingly
 then and there made and signed by the said W. M. for the payment
 of

Bribery, giving
 five guineas, and
 taking promissory
 note to be
 returned at the
 election.

3d Count.

4th Count, another candidate offering.

of five guineas to the said W. N. as a gift or reward to the said W. M. for his giving his said vote in that election for the said G. B. V. and sir R. B. contrary to the form of the statute in such case lately made and provided; whereby and by force of the said statute an action hath accrued to the said W. S. to demand and have of the said W. N. for his last-mentioned offence other five hundred pounds, parcel of the said two thousand five hundred pounds above demanded: And the said W. S. further says, that afterwards and before the said election of burgeses for the said borough and whilst the right honourable G. B. V. commonly called Lord Villiers, the said sir R. B. and S. L. were candidates as aforesaid to wit, on the thirtieth of March, in the said first year of his said present majesty, at the borough of Tamworth aforesaid, that is to say, in that part of the said borough which lies within the county of W. aforesaid, he the said W. N. did corrupt one W. M. having then and there and at the time of the said election a right to vote in the said election, to give his vote in that election for the said G. B. V. and sir R. B. by a corrupt promise which the said W. N. then and there made to the said W. M. he the said W. N. would deliver up to the said W. M. upon his voting in the said election for the said G. B. V. and sir R. B. as a reward for that vote, a certain other promissory note which was then and there made and signed by the said W. M. for the payment of five guineas to the said W. N. contrary to the form of the statute in such case made and provided; whereby and by force of the said statute in such case made and provided, an action hath accrued to the said W. S. to demand and have of the said W. N. for his last-mentioned offence other five hundred pounds, further parcel of the aforesaid two thousand five hundred pounds above demanded: And the said W. S. further says, that the said G. B. V. sir R. B. and S. L. being candidates as aforesaid, afterwards, and before the said election was made, to wit, the thirty-first of March, in the first year aforesaid, one William Abney, esquire, became and was also a candidate at that election to be elected to serve as one of the burgeses for the said borough in the said then next parliament to be holden as aforesaid, and that after the twenty-fourth of June 1725, and after the issuing of the several writs and precepts aforesaid, and before the said election was made, to wit, on the thirtieth of March aforesaid, in the said first year of the reign of our lord the present king, at the borough of Tamworth aforesaid, in that part thereof which lies within the county of Warwick aforesaid, the said W. N. did corrupt one W. M. who then and there and at the time of the said election claimed to have a right to vote in that election, to give his vote in that election for the aforesaid G. B. V. and sir R. B. by the said W. N. his then and there giving to the said W. M. a large sum of money, to wit, five pounds ten shillings in money, and accepting in lieu thereof from him the said W. M. his promissory note for the payment of five guineas to the said W. N. and by a promise and agreement with the said W. N. then and there corruptly made to and with the said W. M. that he

the said W. N. would deliver up the promissory note to the said T. M. upon his voting in that election for the said G. B. V. and sir R. B. as a gift or reward to the said W. M. for his giving his vote in the aforesaid election for the said G. B. V. and sir R. B. contrary to the form of the statute in such case lately made and provided; whereby and by force of the statute in such case made and provided an action hath accrued to the said W. S. to demand and have of the said W. N. for his last-mentioned offence other five hundred pounds, residue of the aforesaid two thousand five hundred pounds above demanded; yet the said W. N. although often requested, &c. hath not yet rendered or paid the aforesaid two thousand five hundred pounds, or any part thereof to the said W. S. but hath hitherto altogether refused, and still refuses so to do, to the damage of the said W. S. of twenty pounds, &c. and thereupon he brings his suit, &c.

DENBIGHSHIRE, to wit. Aaron Hill, who prosecutes as well for our sovereign lord the king as for himself in this behalf, comes, &c. and complains by bill against Robert Clark, present here in the court the same day, of a plea of trespass and contempt against the form of the statute: For that whereas the said Aaron, who as well, &c. for divers, to wit, two years now last past, was an inhabitant and parishioner of the parish of Chirk, in the said county, and the said Robert, during that time aforesaid, was and yet is vicar of the parish church of the same parish, and minister of the same church: And whereas the said Robert, being vicar and minister aforesaid, before the seventh of November 1736, that is to say, on the thirty-first of October in the same year, at the parish aforesaid, in the parish church of the same parish, gave public notice to divers persons, parishioners of the said parish, whereof the said Aaron, who as well, &c. was one, then being assembled together in the said church for the celebration of divine worship there of his the said Robert's purpose of administering the blessed Sacrament on the Lord's Day then next following: And the said A. who as well, &c. further saith, that on the said Lord's Day next after giving of the said notice as aforesaid, that is to say, on the seventh day of November in the year aforesaid, being the day prefixed by the said Robert for the administration of the said sacrament, he the said Robert did administer the blessed Sacrament of the Body and Blood of Christ under both the kinds of bread and wine to divers persons, parishioners of the said parish, being then assembled together and present in the said church for that purpose, and although the said Aaron was a person then and there also present in the same church, and assembled together there with the said other parishioners for the same purpose, and then and there presented himself in due manner to the said Robert for receiving of the blessed Sacrament, and devoutly and humbly desired it of him; yet the said Robert, devising and maliciously intending to aggrieve the said Aaron in this behalf, and to deprive

For refusing to administer the sacrament to a parishioner.
1. Edw. 6. c. 1.
c. 7.

2d Count, ex-
pose to sale.

by bill without his majesty's writ, has impleaded the said John in this same term of St. Michael, in the court of our said lord the king, before the king himself here, to wit, at Westminster, of a plea of debt of eighty pounds, declaring against the said J. in the said plea; for that the said J. on the seventh day of July, in the year of Our Lord 1738, did use the trade and mystery of a butcher, to wit, at London aforesaid, to wit, in the parish of St. Sepulchre, in the ward of Farringdon without, and the said J. so using the said trade, art, or mystery of a butcher, to wit, on the same day and year aforesaid, at London aforesaid, in the parish and ward aforesaid, did sell forty lambs alive, each of the said lambs being of the value of ten shillings, against the form of the statute in such case lately made and provided; whereby and by force of the said statute an action hath accrued to the said James, who sues as aforesaid, to demand and have of the said John for our said lord the king and for himself forty pounds, to wit, double the value of the said forty lambs, parcel of the said eighty pounds above demanded: And whereas the said John so using and exercising the trade of a butcher, afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, in the parish and ward aforesaid, did expose to sale forty other fat lambs, each of them of the value of ten shillings, contrary to the form and effect of the said statute; by reason whereof, and by force of that statute an action hath accrued to the said James to demand and have of the said John as well for our said lord the king as for himself forty pounds, to wit, double the value of the said lambs so exposed to sale as last aforesaid, residue of the said eighty pounds above demanded; nevertheless the said John, although often requested, has not paid to the said James, who sues as aforesaid, as well for the said lord the king as for himself, the said eighty pounds, or any part thereof, but hath hitherto wholly refused and still doth refuse to pay the same, to the damage of the said James, who sues as aforesaid, of eighty pounds; and therefore, &c.; and such proceedings were thereupon had in the court of our said lord the king, before the king himself, to wit, at Westminster aforesaid, in that plea, that by the judgment of the court here the said James has recovered against the said John the said debt of eighty pounds so demanded by him as aforesaid, as by the record and proceedings thereof in the said court here manifestly appears: And the said John further says, that the said cause of action contained in the said declaration of the said S. and the said cause of action contained in the said declaration of the said James, are one and the same cause of action and not divers; and this he is ready to verify; wherefore he prays judgment if the said S. ought to have or maintain his aforesaid action against him, &c.

Demurrer.

And the said S. who as well, &c. says, that he by reason of any thing by the said John above in pleading alledged, ought not to be precluded from having and maintaining his said action against the said John; because he says, that the said plea of the said John

in

er and form above pleaded, and the matter in the same con-
are not sufficient in law to preclude the said S. who as
: from having and maintaining his said action against the
n, to which said plea in manner above pleaded the
who as well, &c. is not bound by the law of the land
r; and this he is ready to verify; wherefore for want of
ent plea in this behalf the said S. who sues as well, &c.
dgment and the said debt, together with his damages oc-
by the detaining of that debt, may be adjudged to him, &c.

he said J. says, that the said plea of him the said J. in Joinder.
and form above pleaded, and the matter therein contained,
sufficient in law to preclude the said S. who as well, &c.
ving and maintaining his said action against him the said
1 said plea, and the matter therein contained, the said J. is
verify and prove as the court shall think fit; and because
S. who as well, &c. hath not answered the said plea, nor
nanner denied the same, the said John, as before, prays
it, and that the said S. who as well, &c. may be barred
ving or maintaining his said action against him, &c. but
the court of our said lord the king now here is not yet ad-
out giving judgment of and upon the premises, day is
: given to the parties aforesaid to come before our lord the
Westminster, until next after to hear judg-
and upon the same premises, for that the court of our
the king now here is not advised thereof, &c.

Term, 15. Geo. 2. judgment
nt was given for the plaintiff.
dant having pleaded in bar,
ave shewn that the action in
as first commenced, so that
ached according to the case
son and Thomas, 2. Lev. 141.
it, *prima facie* was commenc-

ed the first day of term. This and the
paper book were had in 1762 from Mr.
Solicitor-general Norton, who argued the
case for the plaintiff, and he told me the
Court were of opinion each suit ought
to have been pleaded in abatement of the
other.

This Case is reported in 2. Stra. 1169.

DLESEX, to wit. W. S. who sues in this behalf as Debt for having
our sovereign lord the king as for himself, complains of cloaths laced
lias P. G. being in the custody, &c. of a plea that he ren- with foreign
ur said sovereign lord the king and to the said W. S. who lace.
foresaid, the sum of six hundred pounds, which he owes 22. Geo. 2. c.
unjustly detains from him: For that whereas by an act 36.
a parliament of our late sovereign lord George the Se-
te king of Great Britain, &c. and holden at Westminster
ogation on the twenty-ninth day of November, in the
second year of his reign, entitled, "An Act for the more
ual preventing the Importation and Wear of Foreign
oidery and Brocade, and Gold and Silver Thread Lace,
ier Work made of Gold or Silver Lace manufactured in
gn Parts;" it was enacted, amongst other things, that
d after the first day of July 1749, no foreign embroidery
or silver lace should be imported or brought into Great

thereof, or of gold or silver wire or plate wore, wrought, or manufactured in foreign parts, or sew, worked up the same for, in, or upon any garment or wearing apparel, or for ever, upon pain that all and every such foreign embroidery or silver thread lace, fringe, brocade, or other work made up of gold or silver wire or plate so sold or exposed to be changed, bartered, trucked, or disposed of, or sewed, or made up for, in, or upon any garment or wearing apparel, or the garment, wearing apparel, or other materials in, with, or upon which the same should be so sewed, wrought, or made up, should be forfeited and burnt, and all and every person who should vend, utter, sell, or expose to sale, exchange, or truck or dispose of, or knowingly sew, work, or make up, in, or upon any garment or wearing apparel any such foreign embroidery, gold or silver thread lace, fringe, brocade, or other work wove, wrought, fabricated, or manufactured in foreign parts, should for every such offence forfeit the sum of one hundred pounds of lawful money of Great Britain: And it was enacted by the aforesaid act, that all foreign embroidery or silver thread lace, fringe, brocade, or other work made up of, or of gold or silver wire, or of plate wore, wrought, or manufactured in foreign parts, which after the first day of July 1749, should be seized within this kingdom, or which the same should be mixed with, sewed, or made up together with other goods or materials, or otherwise, and the apparel, or other materials in, with, or upon which the same should be mixed, sewed, or made up, should be forfeited, and after the destruction thereof should be burnt, and the mercer, lacemaker, dapper, upholder, milliner, taylor, or other dealers in, or makers up of any of the said manufactory in whose house, shop, or possession the same should be so found and seized, and thereof convicted, should for each piece or parcel of such embroidery, gold or silver wire or plate that should be so found in his, her, or their house, shop, warehouse, custom

or upon which the same should be mixed, sewed, wrought, or made up, publickly burnt at such places as the commissioners of his majesty's customs in England or Scotland respectively should direct: And it was further enacted by the said act, that the several penalties and forfeitures in that act mentioned should and might be prosecuted and determined by bill, plaint, or information in any of his majesty's courts of record at Westminster, or in the court of exchequer in Scotland respectively, wherein no essoin, protection, privilege, wager of law, or more than one imparlance should be allowed, and one moiety of the said penalties or forfeitures should be to the king's majesty, and the other moiety to such person or persons as would sue for or prosecute the same: And it was further enacted by the said act, that if any question or doubt should arise where the said goods were manufactured, the proof should lie upon the owner or claimer of the said goods, or be prosecuted for being guilty of an offence against the act, and not upon the prosecutor, any law, usage, or custom to the contrary notwithstanding, as by the said act, amongst other things (relation being thereto had) more fully appears: And the said W. S. who sues as aforesaid, further says, that the said Peter, on the twenty-third day of December, in the year of Our Lord 1765, and long before, and from thence hitherto hath been and still is a taylor, and a dealer in and vender of gold and silver lace made and manufactured in foreign parts, and in foreign brocade and embroidery, gold and silver thread, and wire and plate, and the said trade and businesses hath during all that time used and exercised, to wit, at Westminster, in the said county of Middlesex, and that after the making the aforesaid act, and after the first day of July, in the said year of Our Lord 1749 mentioned in the said act, and within the space of three months next before the commencement of this suit, to wit, on the twenty-third day of December, in the year of Our Lord 1764, at Westminster aforesaid, there was found and seized in the house of the said Peter, and in his possession, he the said P. so then being a taylor and dealer in the said manufactures as aforesaid, one cloth coat laced with silver thread lace sewed thereon, one cloth waistcoat laced with silver thread lace sewed thereon, one pair of cloth breeches laced with silver thread lace sewed thereon, one cloth coat laced with gold thread lace, and one silver tissue shape for a waistcoat brocaded with gold and silver thread, which said lace so sewed on the said two coats, two waistcoats, and one pair of breeches, and every part thereof, were and had been before then made, manufactured, and fabricated in foreign parts, and which said shape so embroidered as aforesaid, and the said embroidery, had been and were before then made, manufactured, and fabricated in foreign parts, which said two coats, two waistcoats, and one pair of breeches so laced as aforesaid, and the said shape so embroidered as aforesaid had been before then brought and placed in the said house of the said Peter, and was then and continued there with the knowledge, privity, and content of the said P. against the form and effect of the said act, the said P. forfeited for his said offence the sum of six hundred pounds, being one hun-

dred pounds for each and every of the said two coats and two waistcoats, and one pair of breeches, and one shape, whereby and by force of the said act an action hath accrued to our said lord the king and to the said W. S. who sues as aforesaid, to demand and have of the said P. the said six hundred pounds above demanded; yet the said P. although often requested, hath not yet paid the said six hundred pounds, or any part thereof, to our said lord the king and the said W. S. who sues as aforesaid, or to either of them, but to pay the same to our said lord the king and the said W. S. who sues as aforesaid, or either of them, he the said Peter hath hitherto altogether refused, and still doth refuse, to the damage, &c.

(a) Declaration against the provost marshal of Tortola for the escape of a prisoner in execution of two judgments recovered by the plaintiff in the court of common pleas, the writs having been executed, and the escape permitted by the deputy provost-marshal.

LONDON, to wit. Mark Davis, and Philip Protheroe complain of John Pownall, being in the custody of the marshal, &c. of a plea that he render to them seven thousand five hundred and forty-eight pounds four shillings and ninepence of good and lawful money of Great Britain, which he owes to and unjustly detains from them: For that whereas the said Mark and Philip heretofore, to wit, on the fifth day of July, in A. D. 1786, in a certain court of record of our said lord the king, to wit, the court of common pleas of the Virgin Islands, holden at Tortola, one of the said Virgin Islands, before the honourable James Robertson, esquire, chief justice, and his companions, assistant justices of his majesty's court of common pleas of the said islands, by the consideration and judgment of the same court recovered against one James Grigg and one William Grigg for a certain debt before then confessed in the same court by the said James Grigg and William Grigg, the sum of three thousand two hundred and seventy-nine pounds fourteen shillings and sevenpence halfpenny of lawful money of Great Britain, equal to six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings current gold and silver money of the said Virgin Islands, exchanged at eighty-seven and a half per cent. with costs: And the said Mark and Philip in fact say, that the said costs so adjudged to them the said Mark and Philip as aforesaid, were afterwards, to wit, on the said fifth day of July, A. D. 1786, at Tortola aforesaid, to wit, at London, in the parish of Saint Mary-le-Bow, in the ward of Cheap, taxed in due form of law, and then and there amounted to a large sum of money, to wit, the sum of nine pounds nine shillings and twopence current money of the said islands, amounting to a large sum of money, to wit, the sum of five pounds and tenpence of lawful money of Great Britain, and the said judgment being in full force, and the said sum of money and costs so recovered as aforesaid being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining the said sum of money and costs by them recovered as aforesaid, afterwards, to wit, on the same day and year aforesaid, duly sued and prosecuted out of the said court of common

(a) See Vol. V. ante, Debt on Simple Contracts, p. 275. and note, p. 277. These following precedents being com-

municated too late to come in their proper place. (See Debt on Escape, Vol. V. p. 222.)

seas of the said Virgin Islands, a certain writ of our said lord
 the king, bearing date the fifth day of July, in the twenty-sixth
 year of the reign of our said lord the now king, against the said
 James Grigg and William Grigg, of and upon the aforesaid judg-
 ment, directed to the provost marshal for the said Virgin Islands
 or his lawful deputy, by which said writ our said lord the king did
 require and command the said provost marshal or his lawful deputy
 to levy the said sum of money so recovered by the said judgment a-
 foresaid, with the costs so taxed as aforesaid, and all subsequent
 costs of that execution of the goods and chattels, slaves, lands,
 tenements, and hereditaments, rents, charges, and annuities be-
 longing to the said James Grigg and William Grigg, and debts
 due to the said James Grigg and William Grigg in the manner di-
 rected and appointed, by virtue of a certain act of the said island
 of Tortola in that case made and provided, and in case he the said
 provost marshal or his lawful deputy could not immediately find
 sufficient goods and chattels, slaves, lands, tenements, and here-
 ditaments, rent, charges, annuities, and debts of the said James
 Grigg and William Grigg, to attach the bodies of the said James
 Grigg and William Grigg, and them safely to keep until the said
 judgment should be satisfied and paid, and of the proceedings of
 the said provost marshal or his lawful deputy therein to make re-
 turn within thirty-one days from the date of the said writ of our
 said lord the now king, and thereof not to fail, as the said provost
 marshal or his lawful deputy should answer the contrary at the
 peril of the said provost marshal or his lawful deputy. And
 whereas also the said Mark and Philip heretofore, to wit, on the
 said sixth day of July, in the said A. D. 1786, in the said court of
 common pleas of the Virgin Islands holden at Tortola aforesaid,
 one of the said Virgin Islands, before the honourable James Ro-
 bertson, esquire, chief, and his companions, assistant justices of
 his majesty's court of common pleas of the said islands, by the
 consideration and judgment of the same court recovered against
 the said James Grigg for certain damages before that time confes-
 sed in the same court by the said James Grigg, the sum of four hun-
 dred and eighty-four pounds eighteen shillings and tenpence of
 lawful money of Great Britain, equal to nine hundred and nine
 pounds five shillings and threepence current gold and silver money
 of the said Virgin Islands, exchange at eighty-seven and a half
 per cent. with costs: And the said Mark and Philip in fact say,
 that the said last-mentioned costs so adjudged to them the said
 Mark and Philip as aforesaid, were afterwards, to wit, on the said
 fifth day of July in the said A. D. 1786, at Tortola aforesaid, to
 wit, at London aforesaid, in the parish and ward aforesaid, taxed
 in due form of law, and then and there amounted to a large sum of
 money, to wit, the sum of eight pounds five shillings and two-
 pence current money of the said islands, amounting to a large sum
 of money, to wit, the sum of four pounds eight shillings and one
 penny of lawful money of Great Britain, and the said last-men-
 tioned judgment being in full force, and the said damages and last-
 men-

mentioned costs, being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining of the said damages and the said last-mentioned costs so by them recovered as aforesaid, afterwards, to wit, on the same day and year last aforesaid, sued and prosecuted out of the said court of common pleas of the said Virgin Islands, a certain other writ of our said lord the now king, bearing date the fifth day of July, in the twenty-sixth year of the reign of our said lord the now king against the said James Grigg, of and upon the said last-mentioned judgment, directed to the provost marshal for the Virgin Islands or his lawful deputy, by which said last-mentioned writ our said lord the king did require and command the said provost marshal or his lawful deputy, to levy the said sum of four hundred and eighty-four pounds eighteen shillings and tenpence of lawful money of Great Britain, equal to nine hundred and nine pounds five shillings and threepence of current gold and silver money of the said Virgin Islands, exchanged at eighty-seven and a half *per cent.* by the said last-mentioned judgment so recovered as aforesaid, with the said last-mentioned costs so taxed as aforesaid, and all subsequent costs of that execution of the goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, and annuities, belonging to the said James Grigg, and debts due to the said James Grigg, in the manner directed and appointed by virtue of a certain act of the said island of Tortola in that case made and provided; and in case he the said provost marshal or his lawful deputy could not immediately find sufficient goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, and annuities, and debts of the said James Grigg, to attach the body of the said James Grigg, and him safely keep until the said last-mentioned judgment should be satisfied and paid, and of the proceedings of the said provost marshal or his lawful deputy therein to make return within thirty days from the date of the said last-mentioned writ of our said lord the now king, and thereof not to fail, as the said provost marshal or his lawful deputy should answer the contrary at the peril of the said provost marshal or his lawful deputy: And the said Mark and Philip further say, that the said John Pownall, before the respective time of issuing and prosecuting of the aforesaid writs out of the said court as aforesaid, was, and from thence hitherto hath been, provost marshal for the said Virgin Islands, and that during all that time it was the duty of the said John Pownall, as provost marshal as aforesaid, by himself or his sufficient and lawful deputy, to duly execute all such writs as aforesaid, sued and prosecuted out of the said court of common pleas of the Virgin Islands, and so directed to him or his lawful deputy as aforesaid, and by himself or his sufficient and lawful deputy, to detain and keep in safe custody all persons by him or such his deputy as aforesaid taken or had in execution by virtue of the same: And the said Mark and Philip further say, that by the said first-mentioned writ so sued and prosecuted out of the said court of common pleas, and so directed as aforesaid, before the return thereof, to wit, on the fifth day of July, in the said A.D.

1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, was delivered to one Maurice Lisle, he the said Maurice Lisle then and there being the lawful deputy of the said John Pownall as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law: And the said Mark and Philip further say, that afterwards, and before the execution of the said last-mentioned writ so delivered to the said Maurice Lisle as aforesaid, and before the return of the said writ secondly above-mentioned, to wit, on the fifth day of July, A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, the said writ secondly above-mentioned, so sued and prosecuted out of the same court, and so directed as aforesaid, was delivered to the said Maurice Lisle, he the said Maurice Lisle so then and there being the lawful deputy of the said John Pownall, as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law; and the said Mark and Philip in fact say, that the said Maurice Lisle, being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was so provost marshal as aforesaid, and before the return of either of the said writs so sued and prosecuted as aforesaid, to wit, on the tenth day of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, by virtue of the said writs, attached, took, and arrested the said James Grigg by his body, and then and there had and detained him in execution of the said judgment at the suit of the said Mark and Philip, as well for the said sums of six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings and nine pounds nine shillings and twopence, as for the said sums of nine hundred and nine pounds five shillings and threepence and eight pounds five shillings and twopence, current money of the said islands, amounting in the whole to a large sum of money, to wit, the sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny of lawful money of Great Britain, and so had and kept, and detained the said James Grigg in execution at the suit of the said Mark and Philip as aforesaid, until he the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was provost marshal of the said island as aforesaid, to wit, on the twentieth day of August, A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, without the licence and against the will of the said Mark and Philip, voluntarily and without any legal warrant or authority whatsoever, permitted and suffered the said James Grigg to go at large and escape out of the custody of him the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, the said sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny, and every part thereof then and still being wholly unpaid and unsatisfied to the said Mark and Philip;

Foreign laws
must be proved
as facts.
Cowp. 174

Philip: And the said Mark and Philip further say, that by the laws established in the said Virgin Islands before and at the time of the said arrest and escape, and still in force there, any prisoner being in the custody of the provost marshal for the time being, or his deputy, in execution of any judgment recovered by any person or persons against such prisoner, in any court of our said lord the king there for any debt due to such person or persons, hath escaped out of such custody the provost marshal hath been and is liable to satisfy such person or persons the sum of money remaining due and unpaid to him or them upon such judgment, to wit, at London aforesaid, in the parish and ward aforesaid; by reason of all such premises an action hath accrued to the said Mark and Philip to demand and have of and from the said John Pownall the said sum of three thousand seven hundred and seventy-four pounds two shillings and fourpence halfpenny, parcel of the said sum of seven thousand five hundred and forty-three pounds four shillings and ninepence above demanded: And whereas also the said Mark and Philip heretofore, to wit, on the said fifth day of July, in the said A. D. 1786, in the court of common pleas of the Virgin Islands, holden at Tortola aforesaid, one of the said Virgin Islands, before the honourable James Robertson, esquire, chief, and his companions, assistant justices of his majesty's court of common pleas of the said islands, by the consideration and judgment of the same court recovered against the said James Grigg and William Grigg, for a certain other debt before that time confessed in the same court by the said James Grigg and William Grigg, the further sum of three thousand two hundred and seventy nine pounds fourteen shillings and sevenpence halfpenny of lawful money of Great Britain, equal to six thousand one hundred forty-nine pounds nine shillings and tenpence three farthings, current gold and silver money of the said Virgin Islands, exchange at eighty-seven and a half *per cent.* with costs: And the said Mark and Philip in fact say, that the said last-mentioned costs, so adjudged to them the said Mark and Philip as aforesaid, were afterwards, to wit, on the said fifth day of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, taxed in due form of law, and then and there amounted to a large sum of money, to wit, the sum of nine pounds nine shillings and twopence, current money of the said island, amounting to a large sum of money, to wit, the sum of five pounds and tenpence of lawful money of Great Britain, and the said last judgment being in full force, and the said last-mentioned sum of money and the said last-mentioned costs so recovered as aforesaid being wholly unpaid and unsatisfied, the said Mark and Philip, for the obtaining of the said last-mentioned sum of money and the said last-mentioned costs so by them recovered as aforesaid, afterwards, to wit, on the same day and year last aforesaid, sued and prosecuted out of the said court of common pleas of the said Virgin Islands a certain other writ of our said lord the king, bearing date the fifth day of July, in the twenty-sixth year of the reign of our said

id lord the now king, against the said James Grigg and William Grigg, of and upon the said last-mentioned judgment, directed to the provost marshal for the said Virgin Islands or his lawful deputy, by which said last-mentioned writ our said lord the king did require and command the said provost marshal or his lawful deputy to levy the said last-mentioned sum of money, so recovered by the said last-mentioned judgment as aforesaid, with the said last-mentioned costs so taxed as aforesaid, and all subsequent costs of that execution of the goods, chattels, slaves, lands, tenements, and hereditaments, rent, charges, and annuities, belonging to the said James Grigg and William Grigg, and debts due to the said James Grigg and William Grigg, in the manner directed and appointed by virtue of a certain act of the said island of Tortola in that case made and provided; and in case he the said provost marshal or his lawful deputy could not immediately find sufficient goods and chattels, slaves, lands, tenements, and hereditaments, rents, charges, annuities, and debts of the said James Grigg and William Grigg, to attach the bodies of the said James Grigg and William Grigg, and them safely to keep until the said last-mentioned judgment should be satisfied and paid, and of the proceedings of the said provost marshal or his lawful deputy therein to make return within thirty days of the date of the said last-mentioned writ of our said lord the now king, and thereof not to fail; as the said provost marshal or his lawful deputy should answer the contrary at the peril of the said provost marshal or his lawful deputy: And the said Mark and Philip further say, that the said John Pownall, before and at the time of suing and prosecuting of the said last-mentioned writ out of the said court as aforesaid, was and from thence hitherto hath been provost marshal of the said Virgin Islands, and that during all that time it was the duty of the said John Pownall, as provost marshal as aforesaid, by himself or his sufficient and lawful deputy, to duly execute all such writs as aforesaid sued and prosecuted out of the said court of common pleas of the said Virgin Islands, and so directed to him or his lawful deputy as aforesaid, and by himself or his sufficient and lawful deputy as aforesaid, taken or had in execution by virtue of the same: And the said Mark and Philip further say, that the said last-mentioned writ so sued and prosecuted out of the said court of common pleas, and so directed as aforesaid, before the return thereof, to wit, on the said fifth day of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, was delivered to the said Maurice Lisle, he the said Maurice Lisle then and there being the lawful deputy of the said John Pownall as provost marshal as aforesaid, and by him in that behalf authorized and appointed to be executed in due form of law: And the said Mark and Philip further say, that the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards and whilst the said John Pownall was so provost marshal as aforesaid, and before the return of the said last-mentioned writ so sued and prosecuted as aforesaid, to wit, on the tenth day of

of July, in the said A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, by virtue of the said last-mentioned writ, attached, took, and arrested the said James Grigg by his body, and then and there had and detained him in execution of the said last-mentioned judgment, at the suit of the said Mark and Philip for the said last-mentioned sums of six thousand one hundred and forty-nine pounds nine shillings and tenpence three farthings, and nine pounds nine shillings and twopence, current money of the said islands, amounting in the whole to a large sum of money, to wit, the sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny of lawful money of Great Britain, and so had, kept, and detained the said John Grigg in execution at the suit of the said Mark and Philip as last aforesaid, until he the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, afterwards, and whilst the said John Pownall was provost marshal of the said islands as aforesaid, to wit, on the twentieth day of August, in A. D. 1786, at Tortola aforesaid, to wit, at London aforesaid, in the parish and ward aforesaid, without the licence and against the will of the said Mark and Philip, voluntarily, and without any legal warrant or authority whatsoever, permitted and suffered the said James Grigg to go at large and escape out of the custody of him the said Maurice Lisle, so being such deputy of the said John Pownall as aforesaid, the said last-mentioned sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny, and every part thereof, then and still being wholly unpaid and unsatisfied to the said Mark and Philip: And the said Mark and Philip further say, that by the laws established in the said Virgin Islands before and at the time of the said last-mentioned arrest and escape, and still in force there, if any prisoner being in the custody of the provost marshal for the time being, or his deputy, in execution of any judgment recovered by any person or persons against such prisoner in any court of our said lord the king there, for any debt due to such person or persons, hath escaped out of his custody, the provost marshal hath been and is liable to satisfy such person or persons the sum of money remaining due and unpaid to him or them upon such judgment, to wit, at London aforesaid, in the parish and ward aforesaid; by reason of all which last-mentioned premises an action hath accrued to the said Mark and Philip to demand and have of and from the said John Pownall the said last-mentioned sum of three thousand two hundred and eighty-four pounds fifteen shillings and fivepence halfpenny, other parcel of the said sum of seven thousand five hundred and forty-eight pounds four shillings and ninepence above demanded. [There was another Count upon the judgment against James Grigg, only mentioned in the first Count.] Common conclusion in debt.

VICARY GIBBS.

DEBT

(a) DEBT ON BYE LAW.

The MASTER, GOVERNOR, and } MIDDLESEX, to wit. (a) Declaration
 COMPANY of the ART and } The master, governor, and by Surgeons
 SCIENCE of SURGEONS of } company of the art and science Company, to
 LONDON *against* FARQUHAR. } of surgeons of London com- recover five
 pound against Walter Farquhar, being, &c. of a plea that he ren- month from one
 der to them twenty pounds of, &c. which he owes to and unjustly who practised
 detains from them; for that whereas the lord Charles, late king surgery in the
 of England, by his letters patent under the great seal of England, city of West-
 bearing date at C. the fifteenth day of August, in the fifth year of minster, with-
 his reign, reciting, that by a certain act, in a parliament of the out having pass-
 lord Henry the Eighth, late king of England, his predecessor, in ed examination,
 the thirty-second year of his reign, it was among other things and received his
 enacted, that the two then several and distinct societies of barbers grand diploma,
 and surgeons of London, and every of them, being free of both as required by a
 the said societies according to the custom of the city of London, bye law of the
 and their successors, should from thenceforth be and remain united, said company.
 and made and reduced into one intire body corporate and perpetual Recital of divers
 commonalty, by the name of masters or governors of the mystery parts of a char-
 and company of barbers and surgeons of London, for ever there- ter of Cha. 1.
 after, and by no other name, as by the said act did more fully which reciting
 appear: And reciting further, that the men of the same societies, as an act of Hen. 8.
 well from the time they were so united and reduced into one body for uniting the
 corporate and politic, as before respectively had holden, used, and company of bar-
 enjoyed divers libertics, franchises, immunities, customs, and pre- bers and sur-
 eminences as well within his city of London, the suburbs and li- geons, confirms,
 berties thereof, as within certain villages and places to the said &c.
 city adjacent, as well on account of the said act of parliament, and
 her acts of parliament, as by virtue and on account of divers
 charters and letters patent by his dearly beloved father, the late
 king James, of blessed memory, and others his progenitors and
 predecessors, late kings and queens of England, to the freemen of
 the said societies and their successors, or either of them, heretofore
 made and granted: And further reciting that his beloved subjects
 the masters or governors of the mystery or company of barbers
 and surgeons of London aforesaid, had most humbly besought him
 that he would ratify unto them the masters or governors of the
 mystery or commonalty aforesaid, and their successors, their an-
 cient privileges, libertics, franchises, customs, and pre-eminences
 heretofore granted and used, and also would duly confirm the for-
 mer grants and charters of his progenitors and predecessors afore-
 said, and would explain, amplify, and reduce to certainty all de-
 fects, ambiguities, and matters of doubt happening in the same
 act, and that for the better and more sure rule and government
 well of the free barbers and surgeons within his said city, and
 within the liberties and precincts by those letters patent under
 granted, as of others being foreigners there exercising their arts

(a) This is among the precedents lately communicated, as in note, p. 376. (See
 the By-Law, Vol. V. p. 166.)

or myſteries, or either of them, and for the ſuppreſſion of in-
 tors, and other unſkilful perſons, by whoſe ignorance very
 of his ſubjects daily ſuſtained and ſuffered many evils and
 ances in their bodies, alſo for the better and more ready ſup-
 of his fleets and ſhips as well with barbers and ſurgeons, and
 and experienced, as with emplaſters, poultices, medicines
 other neceſſaries for his ſervice and expedition at ſea, he was
 graciously pleaſed to enlarge the juriſdiction of the ſaid maſt-
 governors of the myſtery or commonalty aforeſaid, and their
 ceſſors, and to grant to them anew certain other privi-
 liberties, and immunities as to him ſhould ſeem more expe-
 he therefore graciously conſenting to ſuch their petition,
 hoping that if the ſaid maſters or governors of the myſtery and
 pany aforeſaid, and their ſucceſſors, ſhould from his grant hold
 enjoy large liberties and privileges, they might then think
 ſelves more eſpecially and ſtrongly obliged to employ and beſt
 all the ſervice they could for him, his heirs, and ſucceſſors,
 ſpecial grace, certain knowledge, and mere motion, for himſelf
 his heirs, and ſucceſſors, did grant, approve, ratify, and con-
 unto the aforeſaid maſters or governors of the myſtery and
 pany aforeſaid, and their ſucceſſors, all and ſingular ſo many
 ſo great the ſame ſuch ſort and the like manors, meſſuages,
 tenements, court leet, views of frankpledge, and other
 whatſoever, cuſtoms, liberties, franchises, immunities, ad-
 vances, fines, amerciaments, juriſdictions, and hereditaments
 ſoever, as well within his city of London, the liberties and ſuburbs
 thereof, as within the liberties and precincts thereunder by
 letters patent granted, as and which the men of the aforeſaid
 cieties of barbers and ſurgeons, or either of them, then lately
 held, uſed, and enjoyed, or ought lately to have had, holden,
 and enjoyed, or their predeceſſors, by whatſoever name or
 or by whatſoever incorporation, or whether they had been
 afore incorporated or not, had ever lawfully had, holden,
 and enjoyed of hereditary eſtate to them and their ſucceſſors
 ever, or otherwiſe, by reaſon or colour of any letters patent
 of his progenitors or predeceſſors, late kings or queens of En-
 theretofore in any manner ſoever rightfully and lawfully
 confirmed, or granted, or by colour of any lawful preſents,
 cuſtom, or by any other lawful means, right, or title then
 had, uſed, or accuſtomed, although they had not been uſed
 them, or any of them, or might be, or had been abuſed, made
 or diſcontinued; as alſo all and ſingular the charters and
 patents aforeſaid, and all things in them, or any of them,
 granted, ratified, or confirmed, or mentioned to have been
 granted, ratified, or confirmed, according to the true intent
 ſaid charters and letters patent: And further reciting that
 Recital of letters
 patent of king
 James,

dearly beloved father, the late king James, by his letters
 ſealed with his great ſeal of England, bearing date at Weſtmi-
 the thirtieth day of January, in the ſecond year of our reign
 England, France, and Ireland, and over Scotland the

ighth, willed, and for himself, his heirs, and successors, granted into the masters or governors of the mystery and commonalty of barbers and surgeons of London aforesaid, and their successors, that the masters and governors of the mystery and commonalty aforesaid, and their successors, should for ever thereafter have full power and authority to take and have the supervisal, scrutiny, examination, judgment, and correction of all and all manner of, as well freemen as others, whomsoever using or exercising the mystery, art, or faculty of barbers and surgeons, or either of them, as well within the said city of London, the liberties and suburbs thereof, as in other villages, hamlets, or places whatsoever, within three miles of the said city, as well within the liberties as without, where any person using or exercising the mystery, art, or faculty of barbers or surgeons should dwell or reside, or should happen to dwell or reside; reciting also, that by the same letters patent the said late king, his most dear father, had given and granted divers other powers, liberties, jurisdictions, and pre-eminences unto the aforesaid masters or governors of the mystery and commonalty aforesaid, and unto their successors, as well within the aforesaid city of London, as within the distance of three miles of the same city, as well within the liberties as without, as by the same letters patent did more fully appear; he considering in his royal mind that from the time of the grant of the said letters patent, very many new houses and habitations had been then lately built and erected in parts to his said city of London adjacent, especially within seven miles of the said city, and that by the daily concourse of his subjects to the said city, the number of them who exercised and professed the art and faculty of barbers and surgeons was greatly increased, especially of those who were wholly unskilful and incapable in due manner to execute the duties of that art and profession for the good and safety of his people; he willed therefore, and by those letters patent for himself, his heirs, and successors, did grant unto the masters or governors of the mystery and commonalty of barbers and surgeons of London aforesaid, and their successors, that all and singular, as well freemen of the said society, as foreigners, whether they might be native subjects of that his kingdom of England or aliens, professing and exercising the mystery or art of a barber or surgeon, or either of them, within his cities of London and Westminster, the liberties and suburbs thereof, and in other towns, hamlets, and places whatsoever, within the distance of seven miles of the said city of London, as well within the liberties as without, for their own private lucre and profit (physicians duly approved of by the president and commonalty of the college of physicians, London, and admitted and allowed to practise physic being only excepted) should and might from time to time for ever thereafter be subject and bound to the power, supervisal, scrutiny, examination, government, summoning, convocation, visitation, swearing, correction, and all other impositions, taxes, and collections whatsoever of the aforesaid masters or governors of the mystery and commonalty of barbers and surgeons

surgeons of London and their successors, masters and governors of the said corporation, and to all manner of pecuniary payments, charges, fines, amerciaments, imprisonment, pains, and penalties whatsoever by the aforesaid masters or governors of the mystery or commonalty aforesaid for the time being from time to time inflicted or imposed; and that all and singular such persons professing or exercising the aforesaid arts of barbers and surgeons, or either of them, within his said cities of London and Westminster, or in whatsoever towns, hamlets, and places within seven miles of his said city of London (except as before excepted) should be holden and subject by and to the same laws, ordinances, oaths, impositions, taxes, fines, imprisonments, distresses, penalties, prescriptions, and constitutions to and by which the barbers and surgeons of the said city of London by any acts of parliament whatsoever, or by any charters or letters patent whatsoever, of any of his predecessors or progenitors theretofore to the aforesaid masters or governors of the mystery and commonalty aforesaid, by whatsoever names made and granted, might, or ought to be holden: And the said late king Charles the First by his said letters patent further reciting, that the masters or governors of the mystery and commonalty of barbers and surgeons aforesaid, and their assistants, out of their commendable care for the better suppression of impostors, and others unskilled in the art and science of surgery aforesaid, and avoiding unwholesome ingredients, implasters, ointments, poultices, and medicaments, had been used to elect out of themselves ten examiners, who all professing the aforesaid art and science of surgery, might survey, examine, and try as well the freemen of the aforesaid society as foreigners, and their medicines and instruments; he therefore graciously consulting the welfare and public good of his subjects, willed, and by those letters patent for himself, his heirs, and successors, granted unto the masters or governors of the mystery and commonalty aforesaid, and their successors, that for ever thereafter they should have power and authority of electing and constituting ten of the freemen of that society, in form in those letters patent below ordained, who should continue in that office during their natural lives, unless for any apparent default, or other reasonable cause, they, or any of them, should by the masters or governors of the mystery and commonalty aforesaid for the time being, and the assistants of the same, or by the major part of them (of whom he willed that some of the masters or governors there should be two) be from that office removed: And the said late king Charles the First, by his said letters patent, further reciting, that for the better preservation of the welfare of his subjects and preventing of dangers and inconveniencies which might happen to them by unskilful impostors, and unexperienced professors of the art of surgery, willed, and by those letters patent, of his special grace, certain knowledge, and mere motion, for himself, his heirs, and successors, granted unto the masters or governors of the mystery and commonalty aforesaid, and their successors, that no person or persons whatsoever for the future, whether

or they should be a freeman or freemen of the said society, or whether he or they should be a subject or subjects of the kingdom of England, or an alien, should exercise or use the said art and science of surgery in the said cities of London and Westminster, or either of them, within the distance of seven miles of the said city of London, for his or their private lucre or profit (the aforesaid physicians as aforesaid approved of and admitted, being only excepted, unless the said person or persons should have been first examined, in the presence of two or more of the masters or governors of the mystery and company aforesaid, who should do so at such time, by four or more of the examiners of the same society, the time being so as aforesaid elected and appointed, and by public letters testimonial of the same masters or governors, under their common seal, approved of and admitted to exercise the said art and science of surgery, according to the laws and statutes of the kingdom of England, on pain of forfeiting the sum of five pounds for every time wherein, without such allowance and admonition, they should practice surgery, or exercise the said art or science of surgery, and that the masters or governors of the mystery and company aforesaid, for the time being, might levy and exact such penalties and forfeitures, and should have one moiety thereof for himself, his heirs, and successors, and the other moiety for the public use of the commonalty and society aforesaid, and that the same should be prosecuted by distress or action in any court of record, or not of record, to be holden within his said city of London, or by any other lawful means whatsoever, or in any court whatsoever, as to them should seem more expedient, in and under the said letters patent (a) in the court of chancery of our lord the king, at Westminster, inrolled of record (an exemplification of the said letters patent under the great seal of England, and bearing date the 10th day of January, 1753), the said master, governors, and commonalty of the mystery and company of surgeons of London bring here into court), it is recited that by a certain statute made in the parliament of the 22d year of the said king, the late king of Great Britain, holden at Westminster, in the eighteenth year of his reign, intituled, "An Act for making the Surgeons of London, and the Barbers of London two separate and distinct Corporations," it is enacted, that the union and incorporation of the barbers and surgeons, made by the therein recited act of the thirty-second year of the said king, should from and after, &c. &c. (insert by way of the clause whereby the union and incorporation of barbers and surgeons was dissolved, the surgeons made a separate

Recital of several clauses in 18. Geo. 2. for making the surgeons and barbers distinct corporations.

original charter is in the Barber's Company, and will be inserted instead of that in the said King Charles the

First under his great seal of England, and which said letters patent under the great seal of the same lord the king of England."

T. D.

C c 2

body,

body, and may enjoy rents not exceeding two hundred pounds *per annum*): And by the said statute it is further enacted, that it should and might be lawful, &c. &c. (the clause empowering the corporation to choose officers): And by the said statute it is further enacted, that it should and might be lawful, &c. &c. (the clause empowering any two of the masters and governors, with assistants, to hold courts and make or annul bye laws): And by the statute it is further enacted, that John Ranby, esquire, principal serjeant surgeon to his majesty, &c. &c. (names of the master, wardens, examiners, and court of assistants): And by the said statute it is further enacted, that it should and might be lawful to and for the said J. R. &c. &c. (master, &c. (a) to meet on the first day of July 1745, to complete the court of assistants to the number of twenty-one): And by the said statute it is further enacted, that the master, governors, &c. &c. (annual meetings to choose officers): And the master, governors, and commonalty of the art and science of surgeons of London in fact say, that after the making of the said letters patent, and of the same act of parliament, and before the exhibiting of this bill, to wit, on the seventh day of April 1748, at London, in the parish of St. Mary, Ludgate, in the ward of Farringdon Within, the (b) [then master or governor, and the then two governors and wardens, and nine or more of the then members of the said court of assistants of the said company, being then and there duly assembled, in order to treat and consult about and concerning the rule, order, state, and government of the said company, did make and ordain a certain ordinance, or bye law, requisite and convenient for the said company, and not repugnant, &c.] *said master, governors, and commonalty of the art and science of surgeons of London, being then and there assembled for the good government of the said freemen of the aforesaid art and science, and their said commonalty, and their successors, made a certain ordinance, or bye law, not repugnant to the laws of this realm, whereby among other things, it is ordered, that if any person should practise surgery, without having first been duly examined by the court of examiners, and having received the grand diploma under the seal of the company, he should forfeit and pay to the use of the company the sum of five pounds of, &c. for every month he should so continue to practise, or profess to practise without such licence and authority, which said ordinance or bye law so as aforesaid made and ordained, afterwards, to wit, on the same day and year last aforesaid, at London aforesaid, at the request of the said master, governors, and commonalty of the art and science of surgeons of London aforesaid, and according to the*

(a) I think it should be shewn that this meeting was holden accordingly, and what five persons were elected to fill up the number of twenty-one. T. D.

(b) The part in Italic was altered for that between crotchets above, by sir Thomas Davenport.

I think it would be proper here to name the master, wardens, and members of the court of assistants, who were present at the making of this bye law.

T. D.

tenor

of a certain act of parliament in such case made and provided, 19. Hen. c. 7.
 been, read, and examined by the right honourable Philip lord Black. Com. t. 1.
 wick, then lord high chancellor of Great Britain, sir William P. 476.
 knight, then lord chief justice of the lord George the Second,
 ing of Great Britain, assigned to hold pleas in the court of
 me lord the king, before the king himself, and sir J. Willes,
 it, then lord chief justice of the same lord the king of the
 1, at Westminster, and by them approved, to wit, at West-
 er aforesaid, in the county of Middlesex, of all which pre-
 the said W. F. afterwards, to wit, on the first day of January
 , at Westminster aforesaid, in the said county of Middlesex,
 otice, and the said W. F. afterwards (a), to wit, on the same
 nd year last aforesaid, was there in due manner summoned
 equired to attend the court of examiners of the same company
 rgeons to be by them examined as aforesaid: And the said
 r, governors, and commonalty of the art and science of sur-
 : of London in fact say, that the said W. F. after the mak-
 f the aforesaid ordinance or bye law, and before the exhibiting
 s bill, to wit, on the first day of February 1781, and for four
 hs then next following, within the said city of Westminster,
 e said county of Middlesex, did practise surgery without hav-
 rst been duly examined by the court of examiners (b) of the
 ommonalty, and without having received the grand diploma
 r the seal of the said commonalty, contrary to the form and
 : of the aforesaid ordinance or bye law, to wit, at West-
 er aforesaid, in the said county of Middlesex, whereby an
 hath accrued to the said masters, governors, and common-
 of the art and science of surgeons of London aforesaid, to de-
 and have of and from the said W. F. the said twenty pounds
 : demanded; nevertheless the said W. F. although, &c. hath
 et, &c.; damages twenty pounds, and therefore, &c.

THOMAS DAVENPORT.

Here must be set forth who were
 the ten examiners for that year,
 ich he had notice, and who com-
 the court of examiners, at which
 s summoned to attend and be exa-
 , that the court was holden, and
 not attend.

T. D.

(b) The examiners were not elected
 annually, as sir T. conceived; but be-
 ing once appointed held the office during
 life, or until removed. The component
 members of the court of examiners, at
 which defendant was summoned to at-
 tend, are enumerated, and the averment
 advised by sir T. stated under.

and the master, governors, and commonalty of the art and Plea.
 ce of Surgeons of L. in fact say, that after the making of the
 letters patent, and of the same act of parliament, and be-
 the exhibiting of this bill, to wit, said first day of July 1745,
 een the hours of ten and two of the clock of the same day,
 uid J. R. J. S. &c. &c. &c. met at L. aforesaid, to wit, in
 arish of, &c. in a certain place there called Surgeons Hall,
 me having been duly appointed for that purpose by the said
 &c. and then elected, chose, and appointed out of the free-
 men

men of the said court or corporation of surgeons, established and incorporated by the same act of parliament by the majority of votes of them the said J. R. &c. being then present at the same meeting H. H. &c. &c. to be of the court of assistants of the same company or corporation, to continue in the same office for and during their natural lives respectively, or until they should be respectively removed out of the same office: And the master, governors, and commonalty of the art and science of Surgeons of L. in fact further say, that afterwards, to wit, on the seventh of April 1748, at L. aforesaid, in the parish and ward aforesaid, J. F. then master, L. S. then governor or warden, and J. W. &c. &c. then members of the said court of assistants of the said company, being then and there duly assembled in order to treat and consult about and concerning the rule, order, state, and government of the said company, did make and ordain an ordinance or bye law requisite and convenient for the regulation of the said company, and not repugnant to the laws of this realm, whereby among other things it is ordained that if any person should practise surgery at any time thereafter without having first been duly examined by the court of examiners, and having received the grand diploma under the seal of the company, he should forfeit and pay to the use of the said company the sum of five pounds of, &c. for every month he should so continue to practise or profess to practise without such licence and authority; which said ordinance or bye law so as aforesaid made and ordained afterwards, to wit, on the same day and year last aforesaid, at L. aforesaid, at the request of the master, governors, and commonalty of the art and science of Surgeons of L. and according to the tenor of a certain act of parliament in such case made and provided, was seen, read, and examined by the, &c. [as in page 388], of all which premises, &c.; and the said W. F. afterwards, &c. was in due manner summoned and required to attend the court of examiners of the same company of Surgeons to be examined as aforesaid, at the next court to be holden on the nineteenth of April, in the year last aforesaid, at the : And the master, governors, and commonalty of the art and science of Surgeons of L. aforesaid in fact further say, that afterwards, to wit, on said Thursday, the nineteenth of April said 1781, at the said theatre in the Old Bailey, in L. aforesaid, in the parish and ward aforesaid, a court of examiners of the said company of Surgeons, consisting of the nine following persons (*i. e.*) &c. &c. then being examiners of the said company of Surgeons, was in due manner had and holden, and that the said W. F. altogether neglected and refused to attend the same court, to be by the same court examined as aforesaid: And the said master, governors, and commonalty of, &c. further say, that the said W. F. after the making of the aforesaid ordinance or bye law, and after he had such notice as aforesaid, and had been so summoned and required to attend the court of examiners of the said company of Surgeons to be examined as aforesaid, and before the exhibiting of this bill, to wit, on

of May 1781, and for four months, &c. &c. [as in page

ye law requiring persons practising (which I suppose is con-
don, and seven miles round
it is not so stated) to be first
ned, and to receive the grand
der the seal as a proof of the
approbation, appears to me
asonable regulation; and sup-
arranted by the provision for
e laws in the act of parlia-
the charter, I am of opinion
; practising without that qua-
re liable to the penalty thereby
I do not understand this to be
hich the having served by sea
I authorise a man to set up and
der 22. Geo. 2. and 3. Geo. 3.
e examination and certificate
rmy and navy surgeons differ
and diploma does not appear.
it to be substantially different,
y, as well as the other sur-
lising without the Company's
will incur the penalty. If
ny doubt as to persons cer-
: qualified as surgeons for the
vy, it will be prudent for the
o begin with the others.

J. DUNNING.

nciples of the bye law men-
e case seem well stated and
, and I am of opinion that it
law, and that therefore the
nay compel all persons prac-
ry within seven miles, &c. to
amination touching their ca-
in case of their refusal, to levy
e pounds per month, and it ap-
equally compulsory on such as
l as surgeons, or as surgeons'
e navy or army, as on others.
s given to the Company ena-
make regulations of this na-
be true reason of their hav-
wers vested in them is, that no
be suffered to practise sur-
ich only as have skill and abi-
lons of this description have a
admitted to the exercise and
the profession, and if the
rom improper motives, should
roper person from admission
rivilege, the King's Bench
rere, and compel them. This
therefore be no inconveni-
rson properly skilled and edu-

cated, but great injury might arise to the
community if persons were permitted to
evade it without having undergone a pro-
per examination, for examination is the
only test of skill. I don't find that
5. Eliz. c. 4. was ever adjudged to extend
to surgeons; indeed, no regulations were
necessary to be made at a period in which
this act passed, concerning the prac-
tisers of surgery in or near L. for more
beneficial regulations had been previ-
ously introduced by 3. Hen. 8. and I
think the true construction of 22. Geo. 2.
and 3. Geo. 3. c. 8. is, that they are on-
ly designed to entitle officers, &c. to set
up trade *immediately*, who otherwise by
stat. Eliz. or by the customs of particular
places must have spent a long time in ser-
vitute, or in following the trade before
they could evade the penalties of the sta-
tute, &c. The bye law of the company
of Surgeons does not prohibit a man
from practice for a number of years, but
only require, on examination, which
once passed, he becomes immediately qua-
lified. It may be objected in behalf of
such as have received certificates, that
the company having thereby testified that
they are qualified, the object of the bye
law, which is examination, is satisfied;
but clearly this should not be urged for
such as have received certificates, *to be*
surgeons mates only, for they were only
certified to have a capacity to act in a
subordinate line, which by no means im-
plies that they have a competence of abi-
lity to act in business for themselves; and
as to such whose certificate was of their
ability to act as surgeons, since the bye
law directs not only that they shall be ex-
amined, but must also receive the grand
diploma under the seal of the company.
I do not think by a certificate alone that
the bye law is satisfied. It seems the
duty and interest of the Company to as-
certain their right, which they cannot do
with less hazard or more effect than by
bringing an action of debt on the bye law
against some practitioner within, &c. who
has had a certificate to act as a surgeon.
If the Company should succeed against
him, it will establish its right against all
other pretensions, and if it fails it will
not preclude them from trying their rights
with persons not so qualified, though it
will make them more cautious to whom
they grant testimonials of ability.

T. ERSKINE.

I observe this action is brought under the opinion of Mr. Dunning, but I conceive it to be attended with many difficulties. If the defendant has had any previous notice of the bye law, or has been summoned or required to attend a court of examiners, I think that such matter should be alledged in the declaration.

T. DAVENPORT.

Ground of Sir T. Davenport's doubts :
1st, That the bye law extending to persons practising surgery throughout the kingdom without the authority of the

Company is restrained ; 2d, that a notice served by them on defendant, requiring him to attend, stated their authority to require his attendance as derived from the act of parliament, and not from the charter or bye law from which that authority was in fact derived.

Mr. Dunning, in a consultation upon these objections, agreed with Mr. Davenport that it would be advisable to discontinue this action ; and to proceed *de novo* on a bye law to be made by the company for that purpose.

Declaration for several amerciaments in a court baron.

Vide Cro. Jac. 582. Cro. Eliz. 748.

1. For not appearing at court;

YORKSHIRE, to wit. Francis Ferrard Foliamb, esquire, complains against John Whitehead being, &c. of a plea that he render to him the said F. F. F. ten pounds of, &c. which he owes to and unjustly detains from him ; for that whereas the said F. F. on the first of January 1780 and long before was, and continually from thence hitherto hath been, and still is (a) *seised in his demesne as of fee* of and in the manor of D. with the appurtenances, in the said county of Y. And whereas said J. on said first of January said 1780, and long before was, and continually from thence hitherto hath been, and still is seised in his demesne as of fee of and in a certain messuage, and divers, to wit, forty acres of land, with the appurtenances, situate and being at D. P. within and parcel of the said manor of D. and holden of the said F. F. by fealty and suit of court ; and the said J. being so thereof seised during all the time aforesaid, held the same messuage and land, with the appurtenances, of the said F. F. as of his aforesaid manor (b) *by fealty and suit of court* of the said F. F. of his manor aforesaid, holden yearly and every year from three weeks to three weeks ; and the said F. F. being so seised of the said manor, with the appurtenances as aforesaid, and the said J. being so seised of the said messuage and land, with the appurtenances as aforesaid, the said F. F. saith that he, and all those whose estate he had and now hath of and in the aforesaid manor, with the appurtenances, by reason of the said manor, with the appurtenances, from time, &c. have had, and have been used and accustomed to have a certain court baron belonging to the aforesaid manor, with the appurtenances, holden in and for the said manor, before the suitors of the same court, by his and their steward yearly and every year from three weeks to three weeks, and that all defaults and offences of all the tenants of the said F. F. of the aforesaid manor, and of those whose estate the said F. F. had and hath of and in the same manor,

(a) Mr. F. is not seised in fee, but holds for life only.

A general possession will infer a seisin in fee.

T. DAVENPORT.

(b) Qu. Whether held by fealty and suit of court only, or by rent also ?

T. D.

with

with the appurtenances, in opening any quarry or quarries of stone in any part of the wastes of the said manor within the said manor, without the consent of the lord of the same manor for the time being, and in not doing fealty, suit of court, or other services to be done by the tenants of the same manor from time whereof the memory of man, &c. have been presentable in the aforesaid court baron by the homage in the said court, charged and sworn to present such things in the same court as to them belonged to present, and by the said homage so sworn and charged in the same court as aforesaid such amerciaments during all the said time immemorial have used and been accustomed to be assessed, imposed, and set for all such defaults and offences as aforesaid to them seemed meet and convenient to be forfeited therefore to the lord of the said manor for the time being, and which said amerciaments so assessed, imposed, and set as aforesaid, have for all the said time immemorial been appeared by two discreet tenants of the said manor at such court, duly sworn in such court to appear the same; and the said F. F. being so seised of the manor aforesaid, with the appurtenances, and the said J. being so seised of the said messuage and land, and one of the tenants of the said F. F. of the said manor as aforesaid, he the said F. F. in fact saith, that a court baron of the said F. F. on the twenty-sixth of May said 1780, was holden in and for the manor aforesaid, to wit, at D. aforesaid, before

and others, suitors of the same court, by J. B. gentleman, then and there being the steward of the said F. F. of the said court there of his said manor; and that the said John (although he had been before duly warned to appear and do suit and service at the said court so holden as aforesaid, and was at the said court solemnly called in the said court) did not appear in the same court and do suit and service there, but wholly made default therein; whereupon at the same court, by A. B. &c. (twelve) tenants of the said manor being then and there the homage in the same court, then and there duly sworn and charged to enquire and present those things which belonged to the said homage to enquire and present; was presented that the said J. owed suit and service to that court, and had that day made default therein, and they then and there in the same court amerced the said John one shilling in that behalf, and then and there at the same court C. D. and E. F. two discreet tenants of the said manor then and there duly sworn to swear the said amerciament, in the same court appeared the said amerciament of the said John to one shilling, whereof the said John afterwards, to wit, on the same day and year aforesaid, at D. aforesaid, had notice, whereby an action hath accrued to the said F. F. to demand and have of the said J. one shilling, parcel of the said ten pounds above demanded: And the said F. F. further

ad Count,
For opening
a stone quarry
within the waste
without consent
of the lord;

called

3d Count,
For not appear-
ing at a sub-
sequent court to
do suit and ser-
vice;

called *W.* (*a*) within the manor aforesaid, without the consent of the lord of the said manor, and that at the said court baron of the said F. F. so holden as aforesaid, on the same day and year aforesaid, at D. aforesaid, within the manor aforesaid (*b*), it was presented by the homage aforesaid that the said J. had lately opened a stone quarry in the lane leading from D. P. to W. being said lane, parcel of the wastes of the said manor, without the consent of the lord of the said manor, and the homage aforesaid then and there amerced the said John five shillings in that behalf, and then and there at the same court, the said , &c. and , &c. so sworn officers as aforesaid, affirmed the same amercement of the said John to five shillings whereof the said John afterwards, to wit, on the same day and last aforesaid, at D. aforesaid, had notice, whereby an action accrued to the said F. F. to demand and have of the said J. the five shillings, further parcel of the said ten pounds above demanded: And the said F. F. being so seised of and in the said manor, and the appurtenances as aforesaid, and the said John being so seised of the said messuage and land as aforesaid, and one of the tenants of the said F. F. of the said manor as aforesaid, he the said F. F. in fact saith, that a court baron of the said F. F. was afterwards to wit, the thirtieth of December said 1780, holden in and for the said manor aforesaid, to wit, at D. aforesaid, before , &c. and other suitors of the same court, by the said J. B. gentleman, then steward of the said F. F. of his said court there of his manor; and that the said John, although he had been before summoned to appear and attend at that court to do fealty to the lord of the said manor for the lands and tenements which he held of the said lord within that manor, and to have an inquisition found thereof by the homage of that court, and to pay, do, and perform all such duties, rents, suits, and services, as he owed to the lord of the said manor in respect thereof, and was at the said last-mentioned court solemnly called in that court, did not appear or attend in the same court for the purposes aforesaid, or any of them, but wholly made default therein, whereupon at the said last-mentioned court, by , &c. (twelve) tenants of the said manor then and there the homage in the same last-mentioned court, charged to enquire and present those things which belonged to the said homage to enquire and present; it was presented that the said J. W. had been previously summoned to attend at that court to do fealty to the lord of the said manor for the lands and tenements which he held of him within the same manor, and to have an inquisition found thereof by the homage of that court, and to pay, do, and perform all such duties, rents, suits, and services as he owed to the lord of the said manor in respect thereof, and had that day made default therein, and the said homage then and there in

(*a*) *W.* is not within the manor.

(*b*) *W.* is not alledged to be within the manor, but the lane, parcel of the waste within which the stone quarry was open-

ed, is alledged to be within the manor; if it be so, the declaration is right; nor, then the court baron had no jurisdiction over it.

the court amerced the said John for such his default the sum of two shillings and sixpence, and then and there at the same last-mentioned court, C. D. and E. F. two discreet tenants of the said manor then and there duly sworn to appear the said amercement in the same last-mentioned court, appeared the same amercement of the said John to two shillings and sixpence, whereof said John afterwards, to wit, on the same day and year last aforesaid, at D. aforesaid, had notice; whereby an action hath accrued to the said F. F. to demand and have of the said John said two shillings and sixpence, further parcel of the said ten pounds above demanded: And whereas also said John on the first of November 1781, at D. aforesaid, in the said county of Y. borrowed of the said F. F. nine pounds eleven shillings and sixpence, residue of the said ten pounds above demanded, to be paid to the said F. F. when he the said John should be thereunto afterwards requested; yet the said John, although often requested, hath not rendered to the said F. F. the said ten pounds, or any part thereof, but to render the same to the said F. F. hath hitherto altogether refused, and still doth refuse. Damage ten pounds, &c.

4th Count,
Mutualus.

T. DAVENPORT.

PLEAS IN DEBT.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and says, that the said writing-obligatory in the said declaration mentioned is not his deed in manner and form as the said plaintiff hath above in that behalf alledged; and of this he puts himself upon the country, &c.

Plea, non est factum, to a bond.
1. Salk. 274.

AND the said James says, that the said Thomas ought not to have execution for the damages, costs, and charges aforesaid, in form aforesaid recovered, adjudged to him against him the said James, according to the form and effect of the said recognizance; because he the said James says, that the said John Clark in the said judgment mentioned, after the recovery of the said judgment, and before the issuing of any writ of *capias ad satisfaciendum* thereon against him the said J. C. died, to wit, at, &c. in the county of Y. and within the jurisdiction of this court; and this he the said James is ready to verify; wherefore he prays judgment if the said Thomas ought to have execution for the damages, costs, and charges aforesaid, in form aforesaid recovered, adjudged to him against him the said James, according to the form and effect of the said recognizance, &c.

Plea, that the principal died before the issuing of a *ca. sa.*
Palace court.

AND

Plea of *non damnificatus* to a bond of indemnity.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, in the said declaration mentioned, and it is read to him in these words, to wit: Know all men, &c. [copy the bond exactly] he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: Whereas, &c. [copy the condition of the bond verbatim] which being read and heard, the said defendant saith, that the said plaintiff ought not to have or maintain his aforesaid action thereof against him, because he says, that the said plaintiff hath not been damaged at any time since the execution of the said writing-obligatory hitherto in any manner whatsoever, for or by reason or means of any matter, cause, or thing in the condition of the said writing-obligatory mentioned; and this, &c.; wherefore, &c.; if, &c.

Salvit ad & f. 3 diem.

AND the said defendant, by A. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him, he also craves oyer of the condition of the said writing-obligatory in the said declaration, and it is read to him in these words, to wit, [set forth the condition *verbatim*] which being read and heard, the said defendant says, *actio non*; because he says, the said J. W. in his lifetime did, on, &c. in the said condition of the said writing-obligatory in the said declaration mentioned, pay to the said plaintiff the said sum of money in the said condition mentioned, with lawful interest for the same, according to the form and effect of the said condition, to wit, at, &c.; and this, &c. wherefore, &c.: And for further plea in this behalf, he the said defendant by leave, &c. according, &c. says, that the said plaintiff, *actio non*; because he says, that he said J. W. in his lifetime did, after the said, &c. in the said condition of the said writing-obligatory mentioned, and before the exhibiting, &c. to wit, on, &c. pay to the said plaintiff the said principal sum of pounds, in the said condition mentioned, with all lawful interest then due for the same, according to the form of the statute in such case made and provided, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c.

Plea that he paid the judgment or damages.

AND the said defendant, by A. B. his attorney, comes, &c. and says, *actio non*; because he says, that he the said defendant, after the said recovery of the said debt and damages, and before the exhibiting, &c. to wit, on, &c. paid to the said plaintiff the said debt and damages aforesaid, in form aforesaid recovered; and this, &c.; wherefore, &c.; if, &c.

AND the said defendant, by, &c. comes, &c. and says, *actio non* Plea to a debt on recognizance. because he says, that after the recovery of the judgment aforesaid, against him the said defendant, at the suit of him the said plaintiff, in form aforesaid had, and before the exhibiting, &c. of this writ, &c. there was not any writ of *capias ad satisfaciendum* upon that judgment by the said plaintiff against him the said defendant, sued and prosecuted out of this court here, and duly returned and filed of record in the court of, &c. now here, which according to the custom of the said court from time immemorial used and approved of in the same court here, ought to have been done before any bill ought to have been exhibited against him the said defendant in any action of debt upon the said recognizance; 2. *Ld. Ray.* 805. 2. *Salk.* 439. and this, &c.; wherefore, &c.; if, &c.

AND the said J. and W. by A. B. their attorney, come, &c. Plea of the death of one of the defendants after judgment, and before any return of *ca. su.* against him. and say, *actio non*; because they say, that the said C. in the said judgment mentioned, after the rendering of the said judgment, and before the return of any writ of *capias ad satisfaciendum* against him, died, to wit, at, &c.; and this, &c. wherefore, &c.; if, &c.

AND the said defendant, by A. his attorney, comes, &c. and Plea of *duress* to a debt on bond. says, that he the said defendant ought not to be charged with the said debt, by virtue of the said writing-obligatory; because he says, that he the said defendant on, &c. at, &c. in, &c. was imprisoned by the said plaintiff, and others by his collusion, and that he the said defendant was then and there kept and detained in prison, until he the said defendant then and there through the force and hardship of that imprisonment, and for his discharge therefrom made the said writing-obligatory; and this, &c.; wherefore he prays judgment whether he ought to be charged with the said debt by virtue of the said writing-obligatory, &c.

And the said plaintiff, by any thing by the said defendant above pleading alledged, says he ought not to be barred from having and maintaining his aforesaid action thereof against him; because he says, that the said defendant, at the time of making the said writing-obligatory, was at large, and out of prison, and made and executed the said writing-obligatory to the said plaintiff of his the said defendant's own accord and mere free will, and not by any force and hardship of imprisonment of the said defendant, as the said defendant hath above in pleading alledged; and this he the said plaintiff prays, &c. and the said defendant doth the like, &c. Replication to the last plea, *vis.* at large and voluntary.

AND

a right discharge and delivery of all her said homeward
there end and finish her said intended voyage; (wind and
the dangers of the sea, and the restraints of princes and
ways excepted) but if a French war should be proclaimed
and confirmed with England before the arrival of the
Dunkirk the second time before mentioned, then in
going and sailing to Dunkirk, the said ship should sail or
of whether and in such manner as the said Joseph
should think proper and direct, and the said voyage sh
an end at Lynn aforesaid; and the said Thomas Munn
self, his executors and administrators, did thereby cove
mise, and agree to and with the said Joseph and Hen
tively, and their several executors, administrators and a
he the said Thomas Munn, his executors or administrat
and would well and truly pay, or cause to be paid unto t
seph and Henry, their executors, administrators, and
some or one of them, within ten days next after the ar
said ship at Lynn Regis aforesaid, and before her discharg
full sum of thirty-five pounds of lawful money of Gr
and the further sum of thirty-five pounds of like law
within ten days next after her arrival at the port of Br
said, in full of all freight to be due and payable for the
said ship for the voyage aforesaid, and also would and
and discharge all the port charges in and out of the h
haven of Dunkirk aforesaid, which are all and singula
nants, grants, articles, clauses, provisoes, payments,
and agreements whatsoever comprized or mentioned
charter-party, on the part and behalf of the said Thom
his executors, administrators, and assigns, to be obse
formed, fulfilled, accomplished, paid, and kept, accor
true intent and meaning of the same charter-party: A
Sampson further saith, that soon after the making of th
ing-obligatory and the charter-party aforesaid, to wit,
the port of Bridgewater aforesaid. in the said county. r

ailed from Dunkirk aforesaid, in her said voyage, according to the covenant of the said Joseph and Henry in the said charter-party above mentioned: But the said Sampson further alleges that the said ship never did arrive at Lynn Regis in Norfolk aforesaid a second time in her said voyage, nor ever arrived at the port of Bristol in England in the said charter-party mentioned in the said voyage: And the said Sampson further alleges that after the arrival of the said ship at D. aforesaid, in her said voyage from the port of B. aforesaid, as is above-mentioned, to wit, on, &c. the said Thomas Munn paid and discharged charges in and out of the harbour and haven of Dunkirk aforesaid, according to the form and effect of the said charter-party and the condition aforesaid, to wit, at, &c.; and this the said Sampson is ready to verify, wherefore he prays judgment that the said Henry and Joseph ought to have their aforesaid action against him, &c.

The said Joseph and Henry say, that by reason of any thing alleged by the said Sampson, they ought not to be barred from bringing their said action against him; because protesting that the said Sampson, and the matters therein contained, are insufficient in law to bar the said Joseph and Henry from having their said action against him; for replication the said Joseph and Henry say, that true it is that after the making the said writing-obligatory and the charter-party aforesaid, to wit, on, &c. at, &c. in, &c. the said ship did receive and take on board her all such lawful goods and chattels as the said Thomas Munn loaded on board her out of the port of B. aforesaid, with the then first fair wind sailed from thence directly to France, in and upon her said voyage in the said charter-party mentioned, and within six days after her arrival there did lawfully discharged there all her said goods and chattels; and the said ship afterwards, to wit, on, &c. departed from Dunkirk aforesaid in the said voyage, according to the covenant of the said Joseph and Henry in the said charter-party mentioned; and that the said ship never did arrive at Lynn Regis in Norfolk, in the said charter-party mentioned, in her said voyage, nor ever arrived at D. aforesaid a second time in her said voyage, nor ever arrived at the port of B. in England in the said charter-party mentioned in the said voyage, as the said Sampson hath by his said plea alledged; nevertheless the said Joseph and Henry for replication say, that the said Thomas Munn, soon after the making the said writing-obligatory and the charter-party aforesaid, to wit, on, &c. at, &c. did take and receive from them the said Joseph and Henry the said ship or vessel at the said hire or salary in the said charter-party mentioned, for the said voyage in the said charter-party mentioned to be performed therewith, according to the form and effect of the said charter-party; and that after

Replication to the last plea, admitting that the ship sailed for France, and never returned. For replication plaintiffs say, that A. B. put unlawful goods on board, without the consent of plaintiffs, whereby the ship was seized and became forfeited.

after the said Thomas Munn had so taken and received the said goods and whilst the said ship was in her said voyage at Dunkirk aforesaid, as in the said plea is mentioned, he the said Thomas Munn without the knowledge or privity of the said Joseph and Henry did unlawfully cause to be put on board the said ship at Dunkirk aforesaid a certain quantity of tobacco stems to be imported in the said ship from thence to England, contrary to the form of the statute in such case lately made and provided, which said tobacco stems so put on board the said ship as aforesaid were on board her with the knowledge or privity of the said Joseph and Henry, at her departure from Dunkirk aforesaid in her said voyage, and the said ship, soon after her said departure from Dunkirk aforesaid with the said tobacco stems so on board her as aforesaid, and the said Joseph and Henry not knowing that the said tobacco stems were on board her, to wit, in, &c. was driven and sailed in her said voyage into the harbour of Wisbeach, in the Isle of Ely, in the county of Cambridge, and became forfeited by force of the said statute and was then and there seized and detained as forfeited, according to the force of the statute aforesaid, by reason of her having the said tobacco stems on board her, by means whereof the said ship could not, nor could further proceed in her said voyage, according to the form and effect of the said charter-party; and this they are ready to verify; wherefore they pray judgment and their said debt, together with their damages by reason of the detaining thereof be adjudged to him, &c.

Rejoinder to the last replication, that the goods were put on board with the consent of plaintiffs.

And the said Sampson saith, that the said Thomas Munn did not follow the order and direction, and with the privity and consent of the said Joseph and Henry, to wit, on, &c. while the said ship was in her said voyage at D. aforesaid, caused the said tobacco stems to be put on board the said ship at Dunkirk aforesaid, to be imported in the said ship from thence for England; and the said tobacco stems, at the time of the departure of the said ship from Dunkirk aforesaid in her said voyage, were on board the said ship with the knowledge, privity, and assent of the said Joseph and Henry without this, that the said Thomas Munn caused the said tobacco stems to be put on board the said ship to be imported in the said ship from thence to England, without the knowledge or privity of the said Joseph and Henry, as is in the said replication above acknowledged; and this the said Sampson is ready to verify, wherefore before he prays judgment, and that the said Joseph and Henry be barred from having their said action against him, &c.

Plea, non est factum to the bonds; and as to the sums mentioned in the last Counts in the declaration, he saith he doth not owe.

And the said Richard, by J. K. his attorney, comes and defends the wrong and injury, when, &c. and says, that he is not to be charged with the said debt, by means of the said several writings-obligatory in the said declaration mentioned; because he says, that the said several writings-obligatory are not, nor is any one of them his deed; and of this he puts himself upon the country.

and the said Thomas doth so likewise: And the said Richard saith, that he doth not owe to the said Thomas the said several sums of twenty-three pounds in the third and last count of the said declaration mentioned, or any part thereof, in manner and form as the said Thomas hath above thereof complained against him; and of this he puts himself upon the country; and the said Thomas doth so likewise; therefore, &c.

And the said mayor and free burgesses, by C. D. their attorney, come and defend the wrong and injury, when, &c. and pray over of the said writing-obligatory, and it is read to them, &c. they also pray over of the condition of the said writing obligatory, and it is read to them in these words, to wit: "The condition of the above obligation is such, that if the above bounden mayor or free burgesses, or their successors, do and should well and truly pay, or cause to be paid unto the above-named J. W. his executors, administrators, or assigns, the sum of fifty-five pounds of lawful, &c. with interest after the rate of four pounds for each one hundred pounds yearly, at or upon the fifth day of August next, then the above written obligation shall be void, otherwise remain in full force and virtue; which being read and heard, the said mayor and free burgesses say, 1st, *non est factum*; and issue thereon: And for further plea by leave, &c. *actio non*; because they say, that the said mayor and free burgesses paid unto the said J. W. the said sum of fifty-five pounds in the said condition mentioned, together with lawful interest for the same, according to the form and effect of the said condition, to wit, at, &c.; and this, &c.; wherefore, &c.: And for further plea, by leave, &c. *actio non*; because they say, that they the said mayor and free burgesses, after the time mentioned in the said condition for the payment of the said fifty-five pounds, and before the suing out the original writ of the said William Augustus, to wit, on, &c. at, &c. paid to the said J. W. the said sum of fifty-five pounds in the said condition mentioned, according to the form of the statute in that case lately made and provided, together with all the interest for the same, to wit, the sum of twenty-four pounds; and this, &c.; wherefore, &c.

Vide a plea of payment after the day by an executor, 3. Will. 52. 54. and Replication thereto.

And the said William Augustus, as to the said plea of the said mayor and free burgesses by them secondly above pleaded in bar, says, *precludi non*; because he says, that the said mayor and free burgesses did not pay unto the said J. W. the said sum of fifty-five pounds in the said condition mentioned, together with interest for the same, according to the form and effect of the said condition, in manner and form as the said mayor and free burgesses have above in their said last-mentioned plea alledged; and this he the said William Augustus prays may be enquired of by the country; and the said W. A. as to the said plea of the said mayor and free burgesses

Plea (oyer of bond and condition, which was for the payment of a sum of money with interest) *non est factum*; 2d, that they did pay; 3d, the same.

Replication, that they did not pay.

burghesses by them lastly above pleaded in bar, (*precludi non*); because he says, that the said mayor and free burghesses did not pay to the said J. W. the said sum of fifty-five pounds in the said condition mentioned, according to the form of the statute in such case lately made and provided, together with all interest due for the same, in manner and form, &c. &c. [as in the replication to the second plea.]

Plea 1st, *non est factum*; 2d, that after the making of the bond, a commission of bankruptcy was taken out against plaintiff, and that the money is due to plaintiff's assigns.

And the said defendant, by J. A. his attorney, comes and defends the wrong and injury, when, &c. and says that the said writing-obligatory in the said declaration mentioned, is not his deed, and of this he puts himself upon the country; and the said plaintiff doth the like: And for further plea in this behalf, the said defendant, by leave of the court here to him for this purpose granted, according to the form of the statute in such case made and provided, saith, that the said plaintiff ought not further to maintain his aforesaid action thereof against him; because he says, that the said plaintiff being a subject of this kingdom, on, &c. and for a long time, to wit; for the space of one whole year, and afterwards was a merchant, and during all that time did use and exercise the trade of merchandize by way of bargaining, exchanging, bartering, and chevance, and did seek his trade of living by buying and selling, to wit, at, &c.; and the said plaintiff so using and exercising his trade of merchandize, and seeking his trade of living as aforesaid, he the said plaintiff, on, &c. became and was indebted unto J. F. and J. S. (the petitioning creditors) being subjects of this kingdom, in the sum of one hundred pounds of lawful money of Great Britain and upwards, for a true and just debt due and owing from the said plaintiff to the said J. F. and J. S.; and the said plaintiff was also indebted to divers other persons in divers other large sums of money; and the said plaintiff being so indebted as aforesaid, and so using and exercising the trade of merchandize, and seeking his trade of living, afterwards, and after the making the said writing-obligatory, to wit, on, &c. the aforesaid debt to the said J. F. and J. S. and the said other debts being still due, and in no wise paid or satisfied, he the said plaintiff became a bankrupt within the true intent and meaning of the several statutes made concerning bankrupts; and that the said plaintiff, so being and continuing a bankrupt as aforesaid, and the said defendant remaining unpaid and unsatisfied afterwards, to wit, on, &c. at the petition of the said J. F. and J. S. as well for themselves as for all other the creditors of the said plaintiff, made and exhibited in writing according to the form of the statute in such case made and provided, to the right honourable Edward Lord Thurlow, Baron of Ashfield, in the county of Suffolk, then and still being lord high chancellor of Great Britain, a certain commission of our lord the now king, sealed with the seal of Great Britain, in due manner issued out of his majesty's high court of chancery (the said court then and still being held at Westminster

county of Middlesex) against the said plaintiff, directed to &c. &c. &c. by which said commission our lord the king did assign, and appoint, constitute, and ordain them the said &c. &c. &c. his special commissioners there, giving them power and authority to the said commissioners, any four or five of them, to proceed according to the statutes in the said commission specified, and all other statutes in force concerning bankrupts, not only concerning the said bankrupt, his body, tenements, freehold and customary goods, debts, and other whatsoever, but also concerning all other persons who by lment, claim, or otherwise, did or should offend touching premises in the said commission specified, or any part thereof, try to the true intent and meaning of the same statutes, to do execute all and every thing and things whatsoever, as well to satisfaction and payment of the said creditors as of the plaintiff bankrupt aforesaid, as towards and for all other intents and purposes, according to ordinances and provisos of the said &c. the said lord the king, by the said commission, commanded said A. B. &c. &c. or any four or three of them, to promote the execution and accomplishment of the said commission, according to the true intent and meaning of the statutes, with all force and effect, as by the said commission more fully appears, the said commission is still in full force and effect, by virtue of the said commission, and by force of the several statutes, the said B. &c. &c. three of the said commissioners named in the said commission, afterwards, to wit, on, &c. in due form of law did judge and declare that the said plaintiff, before the date and date forth of the said commission against him, became and was a bankrupt within the true intent and meaning of the several statutes in force concerning bankrupts, some or one of them, and accordingly and declared him a bankrupt accordingly, to wit, at, &c. the said defendant further says, that afterwards and before the filing the bill of the said plaintiff, to wit, on, &c. the said plaintiff remaining and continuing a bankrupt, the said A. B. &c. three of the said commissioners named in the said commission by certain indentures then and there made between the said &c. &c. of the one part, and T. B. of, &c. R. F. of, &c. T. W. of, &c. of the other part, then and there being creditors of the said plaintiff, and sealed with the seals of the said A. B. &c. bargained, sold, assigned, transferred to the said T. B. and W. W. amongst other things, the said sum of money due of action in the said declaration mentioned, upon trust to be held to and for the use and benefit of the said T. B. R. F. T. W. and all other the creditors of the said plaintiff who should demand relief by virtue of the said commission, and should contribute towards the expence of the same, according to the limitation of the aforesaid statute, by reason of which said premises, by force of the statutes in that case made and provided, the said

said T. B. R. F. and W. W. then and there became and were; and still are entitled to the said debt, sum of money, or cause of action in the said declaration mentioned; and this he is ready to verify; wherefore, &c. if, &c.

Replication, admitting that plaintiff became a bankrupt, and that he assigned over the bond to a creditor, and that the action is brought in the name of plaintiff, to recover the money for the use of the creditor.

And the said plaintiff, as to the said plea of the said defendant by him lastly above pleaded in bar, saith, that he, by reason of any thing by the said defendant in that plea above alledged, ought not to be barred from further maintaining his aforesaid action thereof against him; because he saith, that after the making of the said writing-obligatory in the said declaration mentioned, to wit, on, &c. at, &c. he the said plaintiff, before he became a bankrupt, for a good and valuable consideration him thereunto moving, assigned, transferred, and set over the said writing-obligatory, and all his right, interest, and property therein to one W. F. and then and there delivered the said writing obligatory to the said W. F. whereof the said defendant afterwards, to wit, on, &c. had notice; and by means thereof, he the said W. F. then and there became, and was and from thence hitherto hath been, and still is entitled to the said debt, or sum of four hundred pounds above demanded, to wit, at, &c.: And the said plaintiff in fact saith, that this action is brought by and in the name of him the said plaintiff, in order to recover the said debt or sum of four hundred pounds above demanded, for the use and benefit of the said W. F. and at his request, and that the said plaintiff is named therein as a trustee for the purpose aforesaid, and not otherwise, to wit, at, &c.; and this, &c.; wherefore he prays judgment and his said debt, together with his damages by him sustained on occasion of the detention thereof to be adjudged to him, &c.

Vide *Winch v. Keely*, Durnf. and East, Rep. 619.—Authority in support of this replication.

Drawn by MR. TIDD.

Demurrer.

And the said defendant, as to the said plea of the said plaintiff above pleaded, in reply to the plea of the said plaintiff by him lastly above pleaded in bar, saith, that the said replication, and the matters therein contained, are not sufficient in law for the said plaintiff to have and maintain his aforesaid action against the said defendant; to which said replication in manner as the same is above pleaded, the said defendant is not under any necessity, nor obliged by the law of the land to answer; and this he is ready to verify; wherefore for want of a sufficient replication in this behalf, the said defendant prays judgment, and that the said plaintiff may be barred from having and maintaining his aforesaid action thereof against him, &c.

This demurrer was withdrawn, and an issue taken on the replication, which upon trial was found for the defendant.

And the said plaintiff says, that the said plea of the said plaintiff ^{Joinder in de-} above pleaded, in reply to the said plea of the said defendant by him ^{murrer.} ^{stly} above pleaded in bar, and the matters therein contained, are sufficient in law for the said plaintiff to have and maintain his foresaid action against the said defendant, which said replication, and the matters therein contained, the said plaintiff is ready to verify and prove as the court shall award; and because the said defendant hath not answered the said replication of the said plaintiff, nor denied the same, the said plaintiff (as before) prays judgment and his said debt, together with his damages by him sustained on occasion of the detention thereof to be adjudged to him, &c.; but because the court of our said lord the king now here is ^{Cur. adv. vult.} not yet advised what judgment to give in the premises, whereon the said parties have put themselves upon the judgment of the court here, a day is therefore given to the parties aforesaid to come before our said lord the king at Westminster, on, &c. next after, &c. to hear judgment; for that the court of our said lord the king now here is not yet fully advised thereof; and as well to try the issue above joined between the said parties to be tried by the country, as to enquire what damages the said plaintiff hath sustained on occasion of the premises, whereon the said parties have put themselves upon the judgment of the court, in case judgment shall be given for the said plaintiff; let a jury thereupon come before our lord the king at Westminster, on, &c. next after, &c. who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties there, &c.

BANK
at the suit of

TAYLOR, ESQ. AND OTHERS, EXECUTORS. } And the said
ind defends the wrong and injury, when, &c. and says, that the } William, by A. B.
said Allen and Sands ought not to have or maintain their aforesaid } his attorney, comes
action against him; because he says, that the said Allen and Sands, } that plaintiffs
is executors as aforesaid, heretofore, to wit, in Hilary term, in } had obtained a
the twenty-third year of the reign of our lord the now king, im- } judgment against
pleaded the said William in the court of our said lord the king, } defendant on
before the king himself at Westminster, in the county of Middle- } the same bond.
sex aforesaid, in a plea of debt on demand for the sum of two hun-
dred and six pounds of lawful money of Great Britain, of and
upon the very same identical writing-obligatory mentioned in the
said declaration; and such proceedings were thereupon had in the
same court, that the said Allen and Sands afterwards, in that very
same Hilary term, in the twenty-third year aforesaid, at Westmin-
ster aforesaid, by the consideration and judgment of that court re-
covered against the said William as well their said debt of two hun-
dred and six pounds as also sixty-three shillings, which in and by the
said court of our said lord the king, before the king himself at
Westminster aforesaid, were adjudged to the said Allen and Sands,
is executors as aforesaid, for their damages which they had sustained

as well by reason of detaining the said debt as for their costs and charges by them about their said suit in that behalf expended, whereof the said William was convicted, as by the record and proceedings thereof still remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in the county aforesaid, manifestly appears, which said judgment still remains in full force and effect, not in any wise reversed, annulled, vacated, or set aside ; and this, &c. wherefore, &c. if, &c.

Replication to
the last plea,
and trial record.

TAYLOR, &c.

against

BANKS.

And the said Allen and Sands say, that they by reason of any thing by the said William in his said plea in bar alledged, ought not to be barred from having and maintaining their aforesaid action thereof against him the said William, because they say, that there is not any such record of the said recovery still remaining in the said court of our said lord the now king, before the king himself here, to wit, at Westminster aforesaid, in the county aforesaid, as they the said William hath above in his said plea in that behalf alledged; and this, &c. when, where, and in what manner the court shall order, direct, or appoint, and thereupon the said William is commanded that he have the said record before our said lord the king at Westminster, on, &c. next after, &c. and that he fail not at his peril; the same day is given to the said Allen and Sands at the same place.

Plea, judgment
recovered, and
payment.

BANKS

at the suit of

TAYLOR, ESQ. AND OTHERS, EXECUTORS.

And the said
William, by A.B.
his attorney,

comes and defends the wrong and injury, when, &c. and prays oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him in these words, to wit: Know all men, &c. &c. He also prays oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: The condition, &c. &c. ; which being read and heard, he the said William says, that the said Allen and Sands ought not to have or maintain their aforesaid action thereof against him ; because he says, that the said Allen and Sands, as executors as aforesaid heretofore, and after the making the aforesaid writing-obligatory, to wit, in Hilary term, in the twenty-third year of the reign of, &c. impleaded the said John Banks in the said writing-obligatory mentioned in the court of, &c. at Westminster, in the county of Middlesex, in a certain plea of debt on demand for the sum of two hundred and six pounds of lawful, &c. of and upon the very same identical writing-obligatory mentioned in the said declaration; and such proceedings were thereupon had in the same court, that the said Allen and Sands afterwards, to wit, in that same Hilary term, in the twenty-third year aforesaid, at West-

Westminster aforesaid, by the consideration and judgment of that court, recovered against the said John Banks, in the said writing-obligatory mentioned, their said debt of two hundred and six pounds, and also sixty-three shillings, which in and by the said court of our said lord the king, before the king himself, at Westminster aforesaid, were then and there adjudged to the said Allen and Sands, as executors as aforesaid, for their damages which they had sustained, as well by reason of the detaining the said debt, as for their costs and charges by them about their suit in that behalf expended, whereof the said J. B. was convicted, as by the record and proceedings thereof still remaining, &c. to wit, at, &c. in c. manifestly appears: And the said William further says, that the said J. B. after the recovery of the said judgment against him, in form aforesaid, and before the day of exhibiting the bill to the said Allen and Sands in this behalf, to wit, in, &c. paid to the said Allen and Sands the sum of one hundred and nine pounds, being the said principal sum of one hundred and three pounds, and interest for the same to that time, and also the sum of sixty three shillings for the damages, costs, and charges of the said Allen and Sands in their said suit against the said J. B. being the money due on the said judgment so recovered in the said writing-obligatory as aforesaid; and this, &c.; wherefore, &c. if, &c.

DYER
at suit of
ARNER, EXECUTOR. } AND the said John, by A. B. his Plea (to debt on
attorney, comes and defends the wrong bond at the suit
of executors)
and injury, when, &c. and saith that of that defendant
and one A. B.
gave the bond
jointly, and that
the obligee in
his lifetime re-
leased A. B. &c.
&c.
that the said William, *actio non*; because he says, that in the day and
year in the said declaration mentioned, one James Banks, as well
as the said John, became bound by the said writing-obligatory in
the said declaration mentioned, for the payment of the said four
hundred pounds in the said writing-obligatory mentioned; and that
the said James Banks, as well as the said John, then and there
sealed, and as his act and deed delivered the said writing-obligatory,
and the said John in fact further saith, that he the said John did
not become bound by, nor seal or deliver the said writing-obliga-
tory in the said declaration mentioned, without the aforesaid J. B.
being together with him as aforesaid; and that after the signing,
sealing, and delivering of the said writing-obligatory by him the
said John and the aforesaid J. B. and in the lifetime of the said
T. G. in the said declaration mentioned, to wit, on, &c. he the
said T. G. by his certain writing of release then and there made
and sealed, and delivered by him the said T. G. to the said J. B.
for the considerations therein mentioned and contained, did remise,
release, and for ever quit claim unto the said J. B. his heirs, &c.
and each and every of them the said writing-obligatory, and all
sums of money thereon or thereafter to become due and payable
by virtue thereof, and of the conditions thereunder written, toge-
ther with all, and all manner of action and actions, cause and
uses of actions, suits, bills, bonds, writings-obligatory, debts,
dues,

Vide 2. Rol.
Abr. 412. Salk.
574. Lit. Rep.
190. Co. Lit.
232. 2. Sid. 41.

dues, duties, sum and sums of money, judgments, executions, extents, quarrels, controversies, trespasses, damages, and demands whatsoever, both at law and in equity, or otherwise howsoever which he the said T. G. his heirs, &c. might at any time or times thereafter have, claim, challenge, or demand, and for or by reason or means of any matter, clause, or thing whatsoever, from the beginning of the world, unto the day of the date of the said deed, or writing of release, as by the said deed or writing of release, bearing date the day and year aforesaid, more fully appears; and this, &c.

V. LAW.

Plea (to debt on bond) that the money due on the bond was lent to a third person, and the bond made to the plaintiff, as her trustee, that she is dead, and indebted to the defendant in more than the amount which he offers to set off.

JACKSON } AND the said Robert, by A. B. his attorney, comes
at suit of } and defends the wrong and injury, when, &c. and
ELLIS. } craves oyer of the said writing-obligatory, and it is
read to him in these words, to wit, &c. &c.; he also prays oyer of
the condition of the said writing-obligatory, and it is read to him
in these words, to wit: The condition, &c. &c. [set forth the
condition, which was for the payment of money by the defendant
to plaintiff] which being read and heard, the said Robert says,
actio non; because he says, that the said writing-obligatory was
given to the said John for securing the payment of fifteen pounds
only, with interest for the same, as expressed in the condition
aforesaid, and that there is due and owing for principal and interest
thereon, a certain sum, to wit, the sum of ten pounds and no
more: And the said Robert further saith, that the said principal
sum of pounds was lent and advanced by one E. C. widow,
deceased, in her lifetime to the said Robert, to wit, at, &c.; and
that the said writing-obligatory in the said declaration mentioned,
was given by the said Robert to the said John, at the request and
by the direction of the said E. C. in trust, for her the said E. C.;
and that all principal money and interest now due and owing from
the said Robert, upon or by virtue of the aforesaid bond, by the
condition thereof, is now due and owing unto the legal repre-
sentative of the said E. C. which legal representative is unknown
to the said Robert: And the said Robert further saith, that the
said E. C. before the exhibiting the bill of the said John, to wit,
in the lifetime of the said E. C. and at the time of her death was
indebted to the said John in a much larger sum of money than the
money due and owing from the said Robert for principal and in-
terest upon the aforesaid writing-obligatory; by the condition
thereof, that is to say, the sum of pounds of lawful, &c.
for divers goods, wares, and merchandizes, before that time sold
and delivered by the said Robert to the said E. C. at her special
instance and request, and for the work and labour, care, and dili-
gence of the said Robert, before that time done, performed, and
bestowed in and about the business of the said E. C. and for the
said E. C. and at her like instance and request, and for money had
and received by the said E. C. in her lifetime for the use of the
said Robert, to wit, at, &c. out of which said sum of, &c. he the
said

saïd Robert is ready and willing, and hereby offers to set off and allow to the saïd John so much money as will be sufficient to satisfy and discharge the money due and owing in the saïd writing-obligatory, by virtue of the condition thereof, and all damages sustained by occasion of the detaining the same; and this, &c.; wherefore, &c.

AND the saïd William Vavasour, and H. A. the now defendant, by A. B. their attorney, come and defend the wrong and injury, when, &c. and say, *ad id non*; because they say, that the saïd H. A. the testator, in his lifetime was seised of divers lands and tenements, situate, lying, and being in the saïd county of York, to the value of the saïd debt of the saïd Francis, and above; and being so seised thereof, the saïd H. A. the testator, in his lifetime on, &c. at, &c. made his last will and testament in writing, and thereby did give, bequeath, and devise unto the saïd W. V. T. M. and H. A. the now defendant, and their heirs, all and every his messuages, cottages, lands, tenements, and hereditaments whereof he was possessed, or whereto he had any lawful or equitable right, title, or interest to dispose of by that his last will and testament, wheresoever the same should be lying or being, and in whose possession soever the same, or any part thereof, were or should be, and did thereby likewise give and bequeath unto the saïd W. V. T. M. and H. A. the now defendant, all and every his household and other goods, chattels, cattle, and other personal estate of what nature, kind, or quality soever the same consisted, upon the special trust and confidence that they, in such convenient time after his decease as to them should be thought meet and proper, should sell and dispose of such his messuages, cottages, lands, tenements, and hereditaments, and also of all and every his household and other goods, chattels, cattle, and other his personal estate, for so much money as could reasonably be gotten for the same; and that the saïd W. V. T. M. and H. A. the now defendant, should pay and apply the money arising by such sales and dispositions in payment of his just debts and funeral expences; and if it should fortune that any surplus money should remain after all his just debts and funeral expences were paid off and discharged, then upon this further trust, that they the saïd W. V. T. M. and H. A. the now defendant, should pay over the same to his dear and loving wife, E. A. to whom he gave and bequeathed such surplus money; and he did thereby declare that it was his will and mind that his trustees, above named, should and might deduct out of the monies arising by the sales of his real and personal estates therein before devised, and bequeathed all such sum and sums of money as they or any of them should expend and lay out, touching the execution of the trust thereby vested in them, as by the saïd will it doth more fully appear: And the saïd H. A. the testator, afterwards, to wit, on, &c. at, &c. died so seised: And the saïd W. V. and H. A. the now defendant, further say,

Plea, that obligor died, and made his will, and did devise all his lands to defendants, in trust, to be sold for the payment of his just debts, and that there are other creditors besides plaintiff, and that the lands are not sold.

that there are, and at the time of the death of the said H. A. the testator, divers other creditors, as well upon bond as upon simple contract of the said H. A. the testator; besides the said F. F. and the said W. V. and H. A. the now defendants further say, that they the said W. V. and T. M. the now defendants, are not, nor at the time of suing out the said original writ of the said F. F. or at any time before, were devisees of any messuages, &c. which were of the said H. A. the testator, at the time of his death, or which he at the time of his death had a power of disposing of by his last will and testament, or of any rent, profit, term, or charge out of the same, otherwise than upon the trusts and for the purposes in the said will mentioned as aforesaid, and that all the lands, &c. which were the said H. A.'s, the testator, at the time of his death, had a power of disposing of by his last will and testament, still remain unfold; and this, &c.; wherefore, &c.

EDWARD BOOTLE.

Demurrer to the
last plea with
special causes.

And the said Francis saith, that the said plea of them the said W. V. T. M. and H. A. the executor, in manner and form aforesaid above pleaded, and the matter therein contained, are not sufficient in law to bar the said Francis from having and maintaining his aforesaid action against them; to which said plea, in manner and form as the same is above pleaded, he the said Francis hath no deed, nor is he bound by the law of the land to answer, and this, &c. wherefore for want of a sufficient plea in this behalf, the said Francis prays judgment, and his said debt, together with the damages, by occasion of detaining the same, to be adjudged to him, &c.: And the said Francis, for causes of demurrer in law in this behalf, according to the form of the statute in such case made and provided, shews to the court here the causes following, that is to say, for that it is not shewn in or by the said plea of what lands or tenements the said H. A. the testator, was seised at the time of making the said devise in the said plea mentioned, nor in what parish, vill, hamlet, or place known, the same lands, or tenements, or any and what part thereof now situate, lying, and being, nor of what lands and tenements devised, as is in the said plea mentioned, the said H. A. died seised, nor in what parish, vill, hamlet, or place known, the same lands and tenements, or any or what part thereof was situate, lying, and being, nor who were the creditors of the said testators, upon bond or simple contract, nor for what sums, nor how such debts, or any of them, were contracted; and also that the said plea is uncertain, and wants form.

R. DRAPER.

Plea, (to debt
on bond by a
son and heir of
obligor) that he
had not any

AND the said Henry A. the son, by J. F. his guardian, who is duly admitted by the court here for that purpose, comes and defends the force and injury, when, &c. and says, that he, as son
lands by hereditary descent.

and

and heir of the said H. A. his father, ought not to be charged with the said debt by virtue of the said writing-obligatory; because he says, that he the said Henry, the son, on the day of obtaining of the said original writ, or at any time since, had not, nor has any lands or tenements by hereditary descent from his father; and this, &c. wherefore he prays judgment, if the said H. A. the son, as son and heir of his said father, ought to be charged with the said debt by virtue of the said writing-obligatory.

PARKER
at suit of
BARKER AND ANOTHER. } AND now at this day, that is to
say, on, &c. until which day the said
defendant had leave to imparl to the
said bill, and then to answer the same, &c. as well the said plain-
tiffs, by their said attorney, as the said defendant, by his said at-
torney, do come before our lord the king at Westminster, and
the said defendant defends the wrong and injury, when, &c. and
prays oyer of the said writing-obligatory, and it is read to him in
these words, to wit, Know all men, &c. [here set forth the bond]
he also craves oyer of the condition of the said writing-obligatory,
and it is read to him in these words: Whereas the above-named
E. P. hath taken and employed J. H. of the city of Westminster,
in the county aforesaid, draper, as a servant, and in nature of a
clerk to him the said E. P. and likewise as his book-keeper and
accountant, and in such other business as the said E. P. should
think fit to employ him about: Now the condition of the afore-
said written obligation is such, that if the said J. H. shall and do from
time to time make and give unto the said E. P. his executors, and
administrators, a just and true account in writing, and discharge
himself of and from, and likewise pay and deliver unto the said E. P.
his executors, and administrators, all such sum or sums of money,
bills, notes, goods, effects, and things whatsoever, of what nature
soever, which the said J. H. shall from time to time receive, dis-
charge, or which shall come into his hands, charge, or custody,
of and belonging to the said E. P. his executors, and administra-
tors, or to any other person or persons whatsoever, he or they shall
or may be charged or chargeable, or otherwise, or any other way
or manner howsoever; or if the said J. H. his executors, or ad-
ministrators do, and shall make and give, or cause to be given
unto the said E. P. his executors, administrators, assigns, full
satisfaction and recompence, in lawful money of Great Britain,
of and for all such monies, bills, &c. of or belonging to the said
E. P. his executors, or administrators, or any other person or
persons wherewith he or they may be charged or chargeable as
aforesaid, which upon making up any account or accounts, or
otherwise at any time or times to have been received or dis-
charged by, or come to the hands, charge, or custody of the said
J. H. and which he shall not duly account for, pay, deliver, or
discharge himself from the said E. P. his executors, administrators,
or assigns as aforesaid, or which shall be found, confessed, or proved
to be embezzled, mispent, or otherwise made away, or unjustly
detained by the said J. H. or any other person or persons by or
through

Plea to declara-
tion on bond by
executor (oyer
of bond and
condition which
was given for
the good beha-
viour of one A.
B. whom plain-
tiffs had taken
as a clerk) that
A. B. performed
the condition.

through his means, privity, and consent, saving all accidental losses by force or robbery in the conveyance of the said money, bills, &c. or other things as aforesaid; it being the intention of the parties hereto, that the said obligation shall have no effect farther than to the acts and deeds, conduct and behaviour of the said J. H. in the premises, then this obligation to be void and of none effect, otherwise to stand and remain in full force, power, and effect; which being read and heard, the said defendant saith, that the said plaintiffs, executors of the said E. P. ought not to have or maintain their aforesaid action against him, because he saith, that the said J. H. from and after the making of the said writing-obligatory, until the death of the said E. P. was employed by the said J. P. as a servant, and in the nature of a clerk to him the said E. P. and likewise as his book-keeper and accountant, and in such other business as the said E. P. thought fit to employ him about, to wit, at, &c.: And the said defendant saith, that the said J. H. hath from time to time made and given unto the said E. P. in his lifetime, and the said plaintiffs executors after his death, a just and true account in writing, and hath discharged himself of and from, and hath likewise paid and delivered unto the said J. P. in his lifetime, and to the said executors since his death, all sum and sums of money, bills, &c. whatsoever, and of what nature soever, which he the said J. H. did from time to time receive, discharge, or which did come into his hands, charge, or custody, of or belonging to the said E. P. or to the said executor of the said E. P. or to any other person or persons wherewith he the said E. P. or his executors should or might, or shall or may be charged or chargeable with or otherwise, or in any other way or manner whatsoever, according to the form and effect of the indenture, to wit, at, &c.; and this, &c. wherefore, &c.; if, &c.

G. Wood.

Replication,
that after testa-
tor's death plain-
tiffs kept A. B.
in their service
as a clerk, in the
business which
they carried on,
in trust, for the
testator's family;
that A. B. re-
fused to pay
them a sum of
money which he
had in his hands.

BARKER & ANOTHER
against
PARKER.

And the said plaintiffs, as to the said plea of the said defendant, by him above pleaded in bar, say, that they by reason of any thing in that plea alledged, ought not to be barred from having and maintaining their aforesaid action against him; because they say, that the said E. P. in his lifetime, to wit, on, &c. at, &c. duly made his last will and testament in writing, and thereby demised and bequeathed to the said plaintiffs, their heirs, executors, administrators, or assigns, divers real estates of him the said E. P. and also the residue of his personal estate, subject to the payment of certain legacies and charges in the said will mentioned, upon trust, among other things, that they should carry on the coal trade, and dealings in salt, and all other the trades and businesses in which the said testator was then concerned, or such parts or branches thereof, or such other trades and businesses as might appear to them beneficial and advantageous to the family of the said E. P. and upon such other trusts as in the said will are mentioned and expressed: And the said E. P. afterwards, to wit, on,

C. at, &c. died without altering or revoking his said will, the said plaintiffs afterwards, to wit, on, &c. at, &c. duly read the said will, and took upon themselves the burthen of the execution thereof; and in pursuance of the said will, and of the trust reposed in them as aforesaid, continually from the death of the said E. P. hitherto have carried on the trades, dealings, and businesses in the said will mentioned, and therein directed to be carried on by them as aforesaid, upon the trusts as aforesaid: And the said plaintiffs further say, that the said J. H. in the condition of the said writing-obligatory mentioned, at the time of the making of the said writing-obligatory, and continually from thence until and at the time of the death of the said E. P. was employed as servant, and in the nature of a clerk to him the said E. P. and as book-keeper and accountant, and in such other businesses as the said E. P. thought fit to employ him about, to wit, at, &c. at the said J. H. at the time of the death of the said E. P. from that time until and upon and after the twentieth day of, &c. continued in the service of the said plaintiffs, executors as aforesaid, and during all that time was employed by them as a servant, and in the nature of a clerk, and as their book-keeper and accountant in the said trade, dealings, and businesses so carried on by them, in pursuance of the said will of the said E. P. as aforesaid, and in such other business as the said plaintiffs thought fit to employ him about, concerning the said trade, dealings, and businesses as aforesaid, so carried on by them in pursuance of the said will as aforesaid, to wit, at, &c. and was not, from the time of the making of the said writing-obligatory, until after the said twentieth day of, &c. and after the breach of the said condition of the said writing-obligatory hereafter mentioned, ever dismissed or discharged from his said service or employment: And the said plaintiffs further say, that after the death of the said E. P. and the said J. H. so continued in the said service or employment as aforesaid, the said plaintiffs as aforesaid, to wit, on, &c. at, &c. a large sum of money, to wit, the sum of, &c. of and belonging to the said plaintiffs, executors as aforesaid, being the balance of an account then and there stated and settled between them the said plaintiffs, executors as aforesaid, and the said J. H. of and concerning divers sums of money of and belonging to the said plaintiffs, as executors as aforesaid, before that time received by the said J. H. as such servant to them as aforesaid, for their use, had been put into and was then in the charge of the said J. H. as such servant of the said plaintiffs, as executors as aforesaid, which said sum of money he the said J. H. afterwards, to wit, on, &c. at, &c. is requested by the said plaintiffs to pay to them the said sum of money, and although the said sum of money, or any part thereof, was lost by casual fire or robbery; yet the said J. H. did not, when he was so requested, pay or deliver to the said plaintiffs, or any of them, or as aforesaid, or either of them, the said sum of money, or any part thereof, nor hath he at any time or times hitherto paid or delivered the said sum of money, or any part thereof, to the said

said plaintiffs, of to either of them, or made any satisfaction or recompence for the same ; but to pay or deliver the same, or any part thereof, to the said plaintiffs, executors as aforesaid, be the said J. H. hath altogether neglected and refused, and still refuses, contrary to the form and effect of the said condition of the said writing-obligatory: And this, &c.; wherefore they pray judgment and their said debt, together with their damages on the occasion of the detaining of that debt, to be adjudged to them, &c.

A. CHAMBER.

Rejoinder, that
A. B. did account and pay plaintiffs all monies that he had, &c.

PARKER
at suit of

BARKER AND ANOTHER.

} And the said defendant, as to the
said plea of the said plaintiffs above
by way of reply pleaded, say, that
the said plaintiffs ought not by reason of any thing therein contained to have or maintain their aforesaid action thereof against him, because protesting that the plea so pleaded by way of reply, and the matter therein contained, are not sufficient in law for the said plaintiffs to maintain their said action against the said defendant, to which said plea, in manner and form aforesaid pleaded, the said defendant has no need, nor is he bound by the law of the land in any manner to answer the same ; for rejoinder, nevertheless, in this behalf, the said defendant says, that after the death of the said E. P. and after the said plaintiffs had proved the said will, and taken upon themselves the burthen of the execution thereof, to wit, on, &c. at, &c. the said J. and the said plaintiffs accounted together, and came to a just and true account in writing of all and every sum and sums of money which the said J. had heretofore received and discharged, or which had come to his hands, charge, or custody, of or belonging to the said E. P. or his said executors, or any other person or persons wherewith he or they could or might be charged or chargeable, or otherwise in any other way or manner ; and upon such accounting, he the said J. was then and there found to be in arrears to the said plaintiffs, as executors as aforesaid, in the sum of pounds, and no more, which said sum of pounds the said J. then and there paid and discharged to the said plaintiffs: And the said J. further saith, that after the death of the said E. P. and after the said plaintiffs had proved the said will, and taken upon themselves the burthen of the execution of the same, to wit, &c. a new agreement was made between the said plaintiffs and the said J. H. that the said J. H. should serve the said plaintiffs as their servant, and in the nature of a clerk, and as their book-keeper and accountant in the said trades and businesses by them intended to be carried on in pursuance of the said will, and the trusts reposed in them as aforesaid, and that he should likewise buy and sell the different commodities to be bought and sold in the said trades and businesses, and pay the servants in the said trades and businesses their respective wages, and which before that time the said J. had been used and accustomed to do, and that they should pay to the said J. H. a greater salary, by the year, than the said E. P. in his lifetime had paid to the said J. that is to say,

twenty

wenty pounds a year more than the said E. P. had in his lifetime aid to the said J. H. : And the said defendant further saith, that in pursuance of such new agreement, the said J. was employed as foresaid, by the said plaintiffs, in his said trade and business by them carried on in pursuance of the said will, and the trusts reposed in them as aforesaid, until at and after the said J.'s receipt of the said sum of pounds, as hereafter mentioned, and not otherwise, to wit, at, &c. : And the said J. further saith, that the said sum of pounds, in the said replication mentioned, was and is money which accrued to the said plaintiffs after the death of the said E. P. in their trades and business by them carried on in pursuance of the said will, and of the trusts reposed in them as aforesaid, and received by the said J. after the settlement of the said account, which the said plaintiffs, executors as aforesaid, by virtue of and in the said employment, and the said J. under the said agreement with the said plaintiffs as aforesaid, and not otherwise ; and this, &c. ; wherefore, &c. ; if, &c.

GEO. WOOD.

PARKER AND ANOTHER } And the said plaintiffs, as to the *Demurrer.*
against } said plea of the said defendant above
PARKER. } pleaded, by way of rejoinder to the
said plea of the said plaintiffs, by them above pleaded by way of reply, say, that the said plea so pleaded by way of rejoinder, and the matters therein contained are not sufficient in law to bar the said plaintiffs from having and maintaining their said action thereof against him, to which said plea, so pleaded by way of rejoinder, in manner and form as the same is above pleaded, they the said plaintiffs have no occasion, nor are they bound by the law of the land to answer ; and this they are ready to verify ; wherefore for want of a sufficient rejoinder in this behalf, they the said plaintiffs pray judgment and their debt, together with their damages on occasion of the premises, to be adjudged to them, &c.

A. CHAMBER.

PARKER } And the said defendant says, that *Joinder in de-*
at suit of } the said plea by him the said de- *murder.*
PARKER AND ANOTHER. } fendant in manner and form above
pleaded by way of rejoinder, and the matters therein contained, are good and sufficient in law to bar the said plaintiffs from having and maintaining their aforesaid action thereof against him the said defendant, which said plea, so pleaded by way of rejoinder, and the matters therein contained, the said defendant is ready to verify and prove as the court shall award : And because the said plaintiffs have not answered the said plea, so pleaded by way of rejoinder, or in any manner denied the same, the said defendant prays judgment, and that the said plaintiffs may be barred from having and maintaining their aforesaid action against him, &c.

GEO. WOOD.

JORDAN

Replication to a plea of performance of covenants, according to the condition of bond, an account stated between plaintiffs and their clerk, balance due, clerk had not paid the balance, but embezzled.

JORDAN AND ANOTHER

at suit of

JOHNSTON.

AND the said Thomas and Leonard, as to the said plea of the said George, by him above pleaded in bar,

say, that they by any thing therein contained, ought not to be barred from having and maintaining their aforesaid action against him; because they say, that the said T. W. after the making of the said writing-obligatory, and after he entered and was received into the service of the said plaintiffs as their clerk or book-keeper, as in the said plea mentioned, and whilst he remained and continued in their house as clerk or book-keeper, as mentioned in the said plea, to wit, on, &c. at, &c. as the clerk or book-keeper of the said plaintiffs, received certain cash, to wit, the sum of one hundred pounds of the customers of the said plaintiffs for their use, and that afterwards, to wit, on, &c. at, &c. he the said T. W. did expend, lay out, and pay for the use of the said plaintiffs a large sum of money, to wit, the sum of, &c. and that afterwards, to wit, on, &c. the aforesaid plaintiffs and T. W. accounted together of and concerning the money by him the said T. W. received in form aforesaid: and also of and concerning the money by him the said T. W. expended, laid out, and paid for the said plaintiffs in form aforesaid, and that upon the balance of such account so then stated and taken, there appeared to be due from the said T. W. to the said plaintiffs, a large sum of money, to wit, the sum of pounds, and the said plaintiffs further say, that the said T. W. did not immediately on the stating of such account, or at any other time pay, or in any manner account unto them the said plaintiffs, or to either of them, for the said balance, to wit, for the said sum of pounds so due to and on balance as aforesaid, or any part thereof, nor hath he hitherto paid over, or in any manner accounted to them the said plaintiffs, or to either of them for the same, or any part thereof; but on the contrary, then and there to wit, on, &c. embezzled and misapplied the said sum of, &c. contrary to the tenor and effect of the said writing-obligatory, and of the condition thereof, whereof the said A. S. and T. G. afterwards, to wit, on, &c. at, &c. had proof, to wit, by the account aforesaid stated in the hand-writing of the said T. W. and due notice; and that the said A. S. and T. G. did not, nor did either of them within one month then next following, or at any other time, jointly or separately make good or pay, nor have they or either of them hitherto made good or paid to the said plaintiffs, or to either of them, the full value of the money, to wit, the said sum of pounds, which the said T. W. did so misapply or embezzle; but they so to do have, and each of them hath hitherto wholly refused, and still wholly refuses so to do, to wit, at, &c. and this, &c. wherefore, &c. and their debt aforesaid, together with their damages by them sustained on occasion of the detaining thereof, to be adjudged to him, &c.

Afterwards,

Afterwards, that is to say, on the day and year, and at the place within contained, before the right honourable William lord Mansfield, the chief justice within mentioned, John Way, gentleman, being associated unto the said chief justice, by force of the statute in such case made and provided, come as well the within named Thomas Jordan and Leonard Lefevre, as the within named George Johnstone, by their attornies, within mentioned, and the jurors of that jury, whereof mention is within made, being summoned likewise, come, who to say the truth of the within contents being chosen, tried, and sworn, say upon their oath, that the within named T. W. did embezzle and misapply the said sum of pounds, within in that behalf mentioned, contrary to the tenor and effect of the within mentioned writing-obligatory, and of the condition thereof, in manner and form as the within named Thomas and Leonard have within by replying alledged; and they assess the damage of the within-named Thomas and Leonard by occasion of the detaining of the debt within demanded, over and above their costs and charges by them about their suit in that behalf expended, to one shilling, and for those costs and charges to forty shillings: Therefore it is considered by the court here, that the said Thomas and Leonard do recover against the said George their debt aforesaid, and the damages aforesaid, by the said jury in form aforesaid assessed, and also pounds for their costs and charges, by the court of our lord the king now here adjudged to them, and at their request by way of increase, which said damages in the whole amount to pounds; and the said George is in mercy, &c.

Postea for plaintiff, in debt on bond, conditioned for indemnifying against imbezzlement of a clerk, on verdict that he did embezzle the sum mentioned in the replication, and final judgment thereon.

HOLME AND ANOTHER }
at suit of
PHILLIPS.

AND the said J. H. and R. W. by A. B. their attorney, come and defend the wrong and injury, when, &c. and

say, that they ought not to be charged of the debt aforesaid, by virtue of the said writing, as devisees of the lands and tenements devised to them by the last will and testament of him the said E. F. because he saith, that the said E. F. by the last will and testament of him the said E. F. did devise to them, and T. M. one messuage, at B. in Leeds aforesaid, with the out-houses, barns, stables, and therewith enjoyed one close, called the Grove, with the appurtenances, situate, lying, and being in Leeds aforesaid, in the said county of York, to hold from the decease of the said E. F. without impeachment of waste, for the term of one thousand years, upon trust, that they, or the survivor or survivors of them, his executors, or administrators, should and might by sale or mortgage of all or any part of the said devised lands and tenements, and by and out of the rents, issues, and profits of the said devised lands and tenements, otherwise as to them in their discretion should seem meet and convenient, raise not only all sum or sums of money, as together with his personal estate, not by his said will specifically bequeathed and devised, should be sufficient to satisfy and defray

Plea (to debt on bond) that the defendantsought not to be charged with the debt of plaintiff because they say, that the testator devised the estates to defendants, in trust, to pay his debts, which estates are insufficient for that purpose

DEBT.—PLEA, NON EST FACTUM.

defray his funeral expences, and all debts that he should owe at the time of his death, monies, and legacies by his said will to be applied accordingly, and after the same were all discharged, then in further trust to raise portions for his younger children: And the said Stephen and Richard further say, that the said E. F. on, &c. at, &c. in, &c. died really and justly indebted to several persons in several sums of money, to wit, ten thousand pounds, to wit, at, &c.: And that the personal estate of him the said E. F. at the time of his death was not sufficient to satisfy and discharge the debts that he the said E. F. was really and justly indebted at the time of his death, to wit, at, &c.: And the said Stephen and Richard further say, that the said E. F. did not devise to them, or either of them, any other lands and tenements than the said lands and tenements above-mentioned, to be devised to them for the purpose aforesaid; and this, &c. wherefore, &c. if they ought to be charged of the debt aforesaid by virtue of the said writing-obligatory.

Plea of non est
factum, bank-
ruptcy in plain-
tiff.

HASELAR } AND the said Robert, by A. B. his attorney;
at suit of } comes and defends the wrong and injury, when, &c.
ATKINSON. } and says, that the said writing-obligatory, in the
said declaration mentioned, is not the deed of the said Rupert, as
by the said declaration is above supposed, and of this he puts him-
self upon the country, &c. And for further plea in this behalf,
the said Robert, by leave of, &c. according to, &c. craves oyer
of the said writing-obligatory, and it is read to him, &c.; he also
craves oyer of the condition of the said writing-obligatory, and it
is read to him in these words, to wit: The condition, &c.;
which being read and heard, the said Robert saith, (*actionem*;) be-
cause he saith, that the said Rupert, at the time of the making of
the said writing-obligatory, and long before, and from thenceforth
until, and upon the day of A. D. 1781, inhabited
and dwelt in a certain dwelling-house of him the said Rupert, in
the parish of, &c. within the liberty of Westminster, in the
county of Middlesex, and during all that time, and for divers
years last past, was a trader, and sought his living by way of buy-
ing and selling, to wit, at Westminster aforesaid: And the said
Robert in fact further saith, that the said Rupert on, &c. at, &c.
was indebted to one A. B. of, &c. in the sum of one hundred
pounds and upwards, and to several other subjects of this realm,
in divers sums of money, amounting, including the debt of the
said A. B. to a large sum, that is to say, the sum of, &c. and
being so indebted, he the said Rupert afterwards, to wit, on, &c.
began to keep his dwelling-house aforesaid, and to conceal himself
therein, with intention to defraud his said creditors of their respec-
tive debts, and on that day became and was a bankrupt, within
the intent and meaning of the statutes made and now in force con-
cerning bankrupts, to wit, at, &c.: And the said Robert fur-
ther says, that afterwards, that is to say, on, &c. at the petition
of

of the said A. B. in due manner made and exhibited in writing on behalf of himself, and of all the other creditors of the said Rupert, to the right honourable C. D. then lord high chancellor of Great Britain, for the obtaining of their remedy in that behalf against the said Rupert, so being a bankrupt as aforesaid, the said A. B. and the several other creditors aforesaid of the said Rupert not being then paid or satisfied their respective debts as aforesaid, a certain commission of bankruptcy of our lord the present king, founded on the statutes made and provided, and then in force against such bankrupts, sealed under the great seal of Great Britain, and brought here into court, bearing date at Westminster, the day and year last aforesaid, directed to one A. B. and C. D. &c. in due manner issued, by which said commission our said lord the king gave full power and authority to the said commissioners, four or three of them, whereof the said lord the king would that the said A. B. or C. D. should be one, according to the statutes made and in force concerning bankrupts; not only concerning the said bankrupt, his body, lands, and tenements, goods, debts, and other his effects whatsoever, but also concerning all persons whatsoever, who, by concealment or otherwise, should offend touching the said premises, or any of them, contrary to the true intent and purpose of the same statutes, or any of them, to do and execute all and every thing or things whatsoever, as well towards the satisfaction and payment of the creditors of the said Rupert, as for and towards all other intents and purposes according to the provisions of the statutes aforesaid, as by the said commission, reference being hereto had, may more fully appear: And the said Robert further says, that the said A. B. &c. three of the aforesaid commissioners in the said commission named, by virtue of the said commission, and also by virtue of the statutes in such cases made and provided, for the better relief of the creditors aforesaid, after the making of the aforesaid-obligatory in the said declaration, and before he exhibiting the bill of the said Rupert, that is to say, on, &c. at, &c. by a certain indenture then and there made between the said A. B. &c. of the one part, and of the other part; the one part of which said indenture, sealed with the seals of the said A. B. &c. the said Robert now brings into court here, the day whereof is the day and year last-mentioned in execution of the commission assigned to the said A. B. &c. amongst other things, the aforesaid debt, in the said declaration mentioned, and the said sum of money due and payable by virtue of the said writing-obligatory, for the use of the said A. B. and all the other creditors of the said Rupert, who had sought, or who should hereafter in due time come in and seek relief by virtue of the said commission, and should contribute towards the said commission: And the said Rupert further says, that he said Robert hath not paid the said sum of money in the said condition of the aforesaid writing-obligatory mentioned, according to the form and effect of the said condition, whereby the said writing-obligatory, at the time of the exhibiting of the aforesaid bill of the said Rupert, and long before was become and is forfeited, and by virtue of the

commission and assignment aforesaid, he the said Robert at the time of exhibiting of, &c. and long before, was and yet is chargeable to pay the said sum of money in the said writing-obligatory mentioned, being the supposed debt above demanded, to the aforesaid ; and this, &c. ; wherefore, &c. if, &c.

Hilary Term, 15. Geo. III.

Plea to debt on bond ; 1st, *non est factum* ; 2d, oyer of bond and condition which was given to plaintiff in consideration she would live in fornication with the defendant.

ROOKSLY } **AND** the said John, by A. B. his attorney, *at suit of* } comes and defends the wrong and injury, when, **FAWCETT.** } &c. and says, that he ought not to be charged with the said debt by virtue of the said writing ; because he says, that the said writing is not his deed ; and of this he puts himself upon the country, &c. ; and the said Sarah doth the like, &c. : And for further plea in this behalf, by leave, of, &c. according, &c. the said John prays oyer of the said writing and it is read to him in these words, to wit, " Know all men," [set out the bond verbatim] ; he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit, " the condition, &c." [set out the condition] ; which being read and heard, the said John saith that he ought not to be charged with the said debt by virtue of the said writing ; because he says that he the said John, being sole and unmarried, made, sealed, and delivered the said writing with the said condition thereof to the said Sarah, she the said Sarah being also sole and unmarried, in consideration that the said Sarah would thereafter unlawfully cohabit and live in fornication and concubinage with him the said John, and for no other consideration or cause whatsoever, to wit, at, &c. in, &c. ; wherefore the said writing was and is void in law ; and this, &c. ; wherefore, &c. if he ought to be charged with the said debt by virtue of the said writing.

(a) Plea in bar, that the cattle replevied were distrained damage *feasant*, and not for rent in arrear.

AND the said defendants, by A. B. their attorney, come and defend the wrong and injury, when, &c. and say (*actio non*) ; because they say, that the said cattle, goods, and chattels of the said J. F. in the said declaration mentioned, at the said time when the same were so taken and distrained as in the said declaration mentioned, were taken and distrained in and upon a certain close of and belonging to the said J. S. for and in the name of a distress for the damage supposed to be there done and doing by the said cattle, goods, and chattels being in and upon the said close of the said J. S. and not for any rent in arrear and unpaid, to wit, at, &c. : And the said defendants further say, that thereupon the said J. F. then and there made his complaint to the said sheriff of the taking and unjustly detaining of the said cattle, goods, and chattels by the said J. S. for the said supposed damage so then done and doing by the said cattle, goods, and chattels to the said J. S. and then and there prayed the said sheriff that the said cattle, goods, and chattels might be forthwith replevied by him the said sheriff, and

(a) This is a plea in *replevin*. (See Pleas, Avowries, &c. in replication for *distress*.)

delivered to him the said J. F.; and thereupon the said defendants further say, that the said sheriff did take from the said defendants no responsible persons as sureties for the said bond or writing-obligatory in the said declaration mentioned for the said damage so then supposed to have been done by the same to the said J. S. to wit, at, &c.; and this, &c.; wherefore, &c; if, &c.

W. BALDWIN.

AND the said William, by A. B. his attorney, comes and demands the wrong and injury, when, &c. and says, that he the said William cannot deny but that he the said William is the brother and heir at law of the said R. R. deceased, in the said writing-obligatory named; nor but that the said writing-obligatory is the deed of him the said R. R. his late brother, deceased; but the said William says, that he hath not nor had any lands or tenements by descent from the said R. R. his brother in fee simple; and this, &c.; wherefore, &c. if, &c.; And for further plea in this behalf, by leave of, &c. says (*actio non*); because he says that he hath not nor ever had any lands or tenements by descent from the said R. R. his brother in fee simple, except the reversion of certain closes, enclosures, or pieces of land, with the appurtenances, situate, lying, and being at, &c. [describe the premises as in mortgage deed] of and belonging to him the said William and his heirs expectant on the determination of a certain term of six hundred years commencing the first of May 1765, granted and demised by the said R. R. in his lifetime to one E. J.; and also of a certain other term of ninety-nine years, commencing on the first of May 1760, granted and demised by the said R. R. in his lifetime unto one H. M. and which said several terms of five hundred and ninety-nine years were assigned and transferred by the said E. J. and H. M. and ratified and confirmed by the said R. R. in his lifetime to one J. W. for the remainder of the said several terms, and also the reversion of a certain messuage or tenement, situate, &c. [here describe the premises as in the mortgage deed] belonging to the said William and his heirs expectant, on the determination of a certain other term of one thousand years, commencing on, &c. granted and demised by the said R. R. in his lifetime to one R. T. and E. his wife, and which said last-mentioned term of years were assigned by the said R. T. and E. and ratified and confirmed by the said R. R. in his lifetime unto one A. W. for the remainder of the said last-mentioned term of years; and this, &c.; wherefore, &c. if the said William as brother and heir at law of the said R. R. ought to be charged with the said debt, except in regard of the said reversions expectant as aforesaid, by virtue of the said writing-obligatory.

Plea (to declaration in debt on bond by administrator of obligee against defendant as brother and heir at law of the obligor) *riens per defect*; and, *plea riens per defect*, except the reversion of premises mortgaged.

Vide 2. Will. 49.

Drawn by MR. CROMPTON.

Plea to declaration, 1st, by all defendants, *rien* as devisees.

2d Plea, by the heir *rien per descendant*, except the rectory of A. of the value of 500l. and no more, which defendant paid to one M. J. in part satisfaction of a bond of testator's for 2000l.

AND the said John the defendant, E. E. and R. by A. B. their attorney, and the said S. by C. D. her guardian, who is admitted by the court here to defend for the said S. who is under the age of twenty-one years, come and defend the wrong and injury, when, &c. and as to this, that the said John the defendant, E. E. R. and S. by the declaration aforesaid are impleaded as surviving devisees of certain lands, tenements, and hereditaments, whereof the said J. S. the father died seised in his demesne as of fee, they the said defendants say (*actio non*), as surviving devisees in form aforesaid; because they say, that although they cannot deny but that the said writing-obligatory is the deed of the said J. S. the father, yet they further say, that they have not, nor hath either of them, nor had they or either of them, at any time whatever, any lands, tenements, or hereditaments, of the said J. S. the father, deceased, (*a*) *whereof he was seised in his demesne as of fee*, as surviving devisees of the last will and testament of the said J. S. the father, deceased; and this, &c.; wherefore, &c. if the said Henry ought to have or maintain his aforesaid action thereof against him as surviving devisees in form aforesaid: And as to this, that the said John the defendant is by the said declaration impleaded as son and heir of the said J. S. the father, deceased, the said John the defendant says, that he, as son and heir of the said J. S. the father, ought not to be charged with the debt aforesaid by virtue of the said writing-obligatory; because he says, that although he cannot deny but that the said writing-obligatory is the deed of the said J. S. the father, yet the said John the defendant further says, that he had not, nor had he on the day of exhibiting the bill of the said Henry, or at any other time before or since, any lands, tenements, or hereditaments, by descent from his said father in fee simple; and this, &c.; wherefore, &c. if he, as son and heir of the said J. S. the father, deceased, ought to be charged with the said debt by virtue of the said writing-obligatory: And for further plea in this behalf as to this, the said John the defendant is by the said declaration impleaded as son and heir of the said J. S. the father, deceased, he the said John by leave of, &c. says, that he, as son and heir of the said J. S. deceased, ought not to be charged with the debt aforesaid by virtue of the said writing-obligatory; because he says he cannot deny, &c. [as before], yet the said John the defendant further says, [as before] in fee simple, except the rectory or parsonage impropriate of the parish of B. in the said county of S. with the appurtenances, and the glebe lands, tythes, offerings, oblations, and obventions thereto belonging and appertaining, which said rectory, glebe, &c. with the appurtenances, at the time of the death of the said J. S. the father, deceased, were and now are of small value, to wit, of the value of six hundred and thirty pounds, and no more, to wit, at, &c.: And the said defendant further says, that the said J. S. the father, in his lifetime, and before his entering into the said writing-obliga-

(a) 3. W. and M. c. 14.

the said declaration mentioned, to wit, on, &c. by his writing-obligatory, sealed with his seal, became held and bound to one M. J. in two thousand pounds of lawful money of Great Britain, to be paid to the said M. J. when he the said S. the father should be thereunto afterwards requested, payment to be well and truly made the said J. S. the father himself and his heirs by the said writing-obligatory last-mentioned, which said last-mentioned writing-obligatory was made in payment of a just and true debt, due and owing from the said S. the father to the said M. J.; and the said last-mentioned writing-obligatory at the time of the death of the said J. S. the father remained and was in full force and effect, and not in anywise annulled, destroyed, or satisfied: And the said J. S. the father further says, that after the death of the said J. S. the father and long before the day of exhibiting the bill of the said J. S. the father to wit, on, &c. he the said J. the defendant, as son and heir of the said J. S. the father, well and truly paid to the said M. J. a large sum of money, to wit, the sum of six hundred and thirty-one pounds, in satisfaction and discharge of so much of the debt then due and owing upon and by virtue of the said last-mentioned writing-obligatory so made and entered into by the said J. S. the father, to the said M. J. as aforesaid, to wit, at, &c. the said six hundred and thirty-one pounds of, &c. and more than really and justly due upon the said last-mentioned writing-obligatory, and which sum of six hundred and thirty-one pounds is more than the real value of the said rectory, glebe, &c. demanded, with the appurtenances, which descended to the said J. the defendant, as son and heir of the said J. S. the father as aforesaid, to wit, at, &c.; and this, &c.; wherefore, &c. if he, the said J. the defendant, ought to be, &c.: And the said S. for furtherance in this behalf says, that she, as devisee in form aforesaid, ought not to be charged with the debt aforesaid by virtue of the said writing-obligatory in the said declaration mentioned; because she cannot deny, &c. [as before], yet she further says that she has not, nor had she on the day of exhibiting the bill of the said Henry, or at any time before or since, any lands, tenements, or hereditaments, of the gift of the said J. S. the father, or of his devisee, except one cottage and twelve acres of land with the appurtenances, situate, lying, and being in, &c. devised by the said J. S. the father, deceased, to her the said S. the mother, the heirs of her body lawfully issuing, and in default of issue to the said J. the defendant, E. E. and their heirs and assigns forever, as tenants in common, and not as joint tenants; and the said estate, so devised to the said S. of and in the said cottage and twelve acres of land, with the appurtenances, at the time of the death of the said J. S. the father, was and now is of the value, to wit, of the value of two hundred and thirty pounds and no more, to wit, at, &c. [here state the former bond]; and that J. S. the father entered into another bond to one M. J. for four hundred pounds; and that the same remained in full

31 Plea, by one of the devisees *riens per devise*, except, &c. and that she paid the full value in part of satisfaction of two bonds of intestate.

4th Plea, by another defend-
ant *rien*, &c. except lands de-
vised to trustees for particular
uses, and that the uses are not
executed.

force as before] : And the said S. further says, that after the death of the said J. S. the father, and long before the day of exhibiting the bill of the said Henry, to wit, on, &c. she the said S. as surviving devisee of the said J. S. the father, well and truly paid, and caused to be paid to the said M. J. a large sum of money, to wit seventy-six pounds, in satisfaction and discharge of so much of the money then due and owing by virtue of the said last-mentioned writing-obligatory so made and entered into by the said J. S. the father, to the said M. J. as last aforesaid, which said sum of seventy-six pounds was then really and justly due upon the said last-mentioned writing-obligatory, to wit, at, &c. and to the said J. G. a large sum of money, to wit, the sum of one hundred and seventy-five pounds of like lawful money, in satisfaction and discharge of so much of the money then due and owing upon and by virtue of the said writing-obligatory so made and entered into by the said J. S. the father, to the said J. G. as aforesaid, to wit, at, &c. which said sum of one hundred and seventy-five pounds of, &c. was then and there really and justly due upon the said last-mentioned writing-obligatory, which said sums of seventy-six pounds and one hundred and seventy-five pounds amount together to the sum of two hundred and fifty-one pounds of, &c. are more than the real value of the said cottage and twelve acres of land, with the appurtenance, which came to the said S. by the gift of the said J. S. the father, deceased, in form aforesaid, as such devisee as aforesaid; and this, &c.; wherefore, &c. if she, as surviving devisee as aforesaid, ought, &c. : And for further plea in this behalf, by leave of, &c. says that she, as surviving devisee in form aforesaid, ought not, &c.; because she says, that although she cannot deny, &c. yet *rien*, &c. except certain lands, tenements, and hereditaments, which the said J. S. the father, deceased, devised to the said E. and R. and the said E. S. deceased, the wife of the said J. S. the father, their heirs and assigns for ever, to the several uses, trusts, ends, intents, and purposes in the said will limited, declared, and expressed of and concerning the same, to wit, upon the special trust to sell and dispose of all and singular the said lands, tenements, and hereditaments, amongst other things, or such part thereof as might in the discretion of the said trustees be sufficient for the purposes in the said will in that behalf mentioned; and in case any part of the said lands, tenements, and hereditaments should, after the due execution of the trusts in the said will above-mentioned, remain in the hands, possession, or seisin of them the E. and R. and the said E. S. the said wife of the said J. S. the father, deceased, unsold or undisposed of, or any monies to be raised as in the said will as aforesaid, should remain in their hands unapplied as aforesaid, then, upon the further trust, that the said E. and R. and the said E. S. the wife of the said J. S. the father, should stand seised and possessed thereof, and every part thereof, with the appurtenances, to the use and behoof of and in trust for the said two daughters of the said J. S. the father, the said E. S. their heirs, executors, administrators, and assigns, as tenants in
common

common, and not as joint tenants; and the said E. doth aver, that the said several trusts, and other purposes in the said will mentioned, for the purpose of which the said lands, tenements, and hereditaments were so devised to the said E. and R. and the said E. S. the wife of the said J. S. the father, their heirs and assigns in trust as aforesaid, still remain unexecuted and unperformed; and that the said estate, so devised to the said E. and R. and the said E. S. the wife of the said J. S. the father, their heirs and assigns, of and in the said lands, tenements, and hereditaments, still continues in full force and effect; and this, &c.; wherefore, until the determination of the said estate devised to the said E. and R. and the said E. S. the wife of the said J. S. the father as aforesaid: And the said E. and R. for further plea in this behalf, leave of, &c. say, that they, as surviving devisees in form aforesaid, ought not to be charged, &c.; because they say, that true is that they are surviving devisees of the last will and testament of the said J. S. the father, deceased, of certain lands, tenements, and hereditaments, whereof the said J. S. the father was seised in demesne as of fee; because they say, that they are such devisees on trust, first to pay the debts of the said J. S. the father, deceased, and then for certain other purposes in his will mentioned, and that there are now real and true debts of the said J. S. the father now unpaid other than the said debt now demanded, which together with divers other real and true debts due from the said J. S. the testator at the time of his death, and since that time paid by the said E. and R. in respect of the said devise, to the amount of the full value of all the lands, tenements, and hereditaments, devised to them in manner aforesaid; and this, &c.; wherefore, &c. if, &c.

5th Plea, by the other defendants, that they are devisees upon trust, first to pay debts, and for other purposes, and that there are other debts besides plaintiff's unpaid, which, with other debts paid by defendants, amount to the full value of the premises.

V. GIBBS

And the said Henry freely here in court confesses, that he will not further prosecute his suit against E. E. and R. but wholly disavows the prosecution thereof against them, the said E. E. and R. therefore let the said E. E. and R. be thereof acquitted and go thereof without day, &c.: And the said Henry as to so much of the said plea first above pleaded in bar as relates to the said John the defendant and Susannah saith, that he by reason, &c. (*precludi*); because he saith that they the said John the defendant and Susannah have, and at the time of exhibiting the bill of the said Henry, had sufficient lands, tenements, and hereditaments of the said J. S. the father, deceased, whereof in his lifetime he was seised in his demesne as of fee, as surviving devisees of the last will and testament of the said J. S. the father, deceased, wherewith the said John the defendant and Susannah might have satisfied the said debt of the said Henry above demanded, to wit, &c.; and this, &c.; wherefore, &c. and his debt aforesaid, &c.

Replication, as to three defendants, *not prof.*; as to so much of the first plea as relates to John and S. says, that they had sufficient lands, as devisees; and as to John's plea, as heir, that he had sufficient lands by descent; as to John's 2d plea, as heir, protesting that the bond to M. J. was not testator's deed,

protesting that the rectory was of more value, protesting that defendant had other lands, that defendant did not pay M. J. 631l.; the same replication to S.'s plea, *mutatis mutandis*.

together with his damages aforesaid, by reason of the detaining of the said debt, to be adjudged to him, &c.: And as to the said plea of the said John the defendant, by him above pleaded in bar, as son and heir of the said J. S. the father, deceased, *precludi non*; because he saith, that the said John the defendant hath, and at the time of exhibiting the bill of the said Henry had sufficient lands, tenements, and hereditaments, by hereditary descent from the said John the father, deceased, in fee simple, which descended upon the said John the defendant from the said J. S. the father, deceased, wherewith the said John the defendant might have satisfied the debt of the said Henry above demanded; and this, &c.; wherefore, &c.: And as to the said plea of the said John the defendant, by him secondly above pleaded in bar, as son and heir of the said John the father, deceased, *precludi non*; because protesting that the said writing-obligatory in that plea mentioned, whereby the said J. S. the father became bound to the said M. J. therein mentioned, in the sum of two thousand pounds of, &c. was not the deed of the said J. S. the father, deceased; protesting also, that the said rectory, glebe lands, tithes, offerings, oblations, and obventions, in the said plea of the said John the defendant, as son and heir, by him secondly above pleaded mentioned, are of much greater value than the said sum of six hundred and thirty-one pounds; protesting also, that the said John the defendant had, and on the day of exhibiting the bill of the said Henry had, other lands, tenements, and hereditaments, by descent from his said father in fee simple, over and above the said rectory, glebe, &c. as in the said plea is mentioned: For replication nevertheless the said Henry says, that the said John the defendant did not pay the said M. J. in the said plea mentioned the sum of six hundred and thirty-one pounds, or any part thereof, in satisfaction and discharge of so much of the money then due and owing upon and by virtue of the said writing-obligatory so made and entered into by the said John the father, to the said M. J. as aforesaid, in manner and form as the said John the defendant hath in his said plea by him thirdly above pleaded in bar alledged; and this he prays may be enquired of by the country: And the said Henry, as to the said plea of the said Susannah by her secondly above pleaded in bar, *precludi non*: because protesting that the said writing-obligatory in that plea mentioned, whereby the said J. S. the father is supposed to have become held and firmly bound to the said M. J. therein mentioned, in the said sum of two thousand pounds, is not the deed of the said J. S. the father; and also that the said other writing-obligatory therein mentioned, whereby the said J. S. is supposed to have been held and firmly bound to the said J. G. therein mentioned, in the sum of four hundred pounds, is not the deed of the said J. S. the father, deceased; protesting also, that the said cottage and twelve acres of land, with the appurtenances, in the said plea of the said Susannah by her secondly above pleaded mentioned, are of much greater value than two hundred and fifty pounds: For replication nevertheless the said Henry says, that as to the said writing-obligatory, whereby

y the said J. S. the father is supposed to have become held
nly bound to the said M. J. in the said sum of four hundred
, mentioned in the said plea of the said Susannah by her
y above pleaded in bar, the said Susannah did not pay to the
. J. in the said plea mentioned, the said sum of seventy-six
, or any part thereof, in satisfaction and discharge of so
money then due and owing upon and by virtue of the said
-obligatory so made and entered into by the said J. S. the
deceased, to the said M. J. as last aforesaid, in manner and
the said Susannah hath in her said plea by her secondly
lead in bar alledged; and this he prays may be enquired of
country, &c. : And as to the said writing-obligatory, where-
aid J. S. the father, deceased, is supposed to have become held
ly bound to the said J. G. in the said sum of four hundred
therein mentioned, in the said plea of the said Susannah by
ndly above pleaded in bar, the said Henry says, that the
annah did not pay to the said J. G. the said sum of one hun-
d seventy-five pounds, or any part thereof, in satisfaction
harge of so much of the money then due and owing upon
virtue of the said writing-obligatory made and entered into
aid J. S. the father to the said J. G. in manner and form as
Susannah hath in her said plea by her secondly above
in bar alledged; and this he prays may be enquired of by
try, &c.

Drawn by MR. GRAHAM.

by the said defendants, by A. B. their attorney, come and
he wrong and injury, when, &c. and say *actio non*; be-
ey say, that the said cattle, goods, and chattels of the said
the said declaration mentioned, at the said time when the
re so taken and distrained, as in the said declaration men-
were taken and distrained in and upon a certain close of
nging to the said J. S. for and in the name of a distress,
damages supposed to be there done and doing by the said
oods, and chattels being in and upon the said close of the
, and not for any rent in arrear and unpaid, to wit, at,
nd the said defendants further say, that thereupon the said
en and there made his complaint to the said sheriff of the
nd unjustly detaining of the said cattle, goods, and chattels
aid J. S. for the said supposed damage so then done and
the said cattle, goods, and chattels to the said J. S. and
there prayed the said sheriff that the said cattle, goods, and
might be forthwith replevied by him the said sheriff, and
l to him the said J. F.; and thereupon the said J. F. and
its further say, that the said sheriff did take from the said
d the said George and Thomas, two responsible persons,
s, the said bond or writing-obligatory in the said declaration
Plea (to decla-
ration in debt
on a replevin
bond, the breach
of the condition
of the bond was
for not appear-
ing at the coun-
ty court, and
prosecuting his
suit with effect),
that the cattle
in declaration
mentioned were
distrained da-
mage feasant
and not for rent
in arrear; and
that defendant
made a com-
plaint to the
sheriff who re-
delivered the
cattle to him,
and thereupon
took the bond.
for the damages supposed to have been done.

DEBT.—PLEA—ESCROW—REPLICATION.

mentioned, for the said damage so then supposed to have been done by the same to the said J. S. to wit, at, &c. ; and this, &c. ; wherefore, &c.

Drawn by MR. GRAHAM.

I take it to be clear that the replevin bond, upon which this action is brought, is not assignable, the statute of 11. Geo. 2. c. 19. only extending to distresses for rent.

This plea was considered by Barrow, who drew the declaration, as a good bar; and therefore the action was dropped.

J. G.

Plea (to declaration in debt on a bond) that defendant delivered the bond as an *escrow*.

AND the said James, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and says, that he ought not to be charged with the said debt, by virtue of the said writing-obligatory; because he says, that the said writing-obligatory is not his deed; and of this he puts himself upon the country, &c. : And for further plea in this behalf by leave of, &c. *actio non*; because he says, that the said writing-obligatory in the said declaration mentioned was made by him the said James on, &c. to secure the repayment of a certain sum of money then lent by the said Richard to one A. B. and delivered by him the said James to one C. D. as an *escrow* to be by him kept on this special condition, that if the said A. B. should, within the space of eight months then next following, secure the repayment of the said sum of money to the said Richard, by a mortgage upon certain freehold premises of him the said A. B. that then and in that case the said writing-obligatory should be immediately discharged, annulled, and held for nothing, and returned and redelivered to the said James, by that in default of the said A. B. so securing the repayment of the said sum of money to the said Richard by such mortgages aforesaid, within the aforesaid time, then the said writing-obligatory of the said James should stand and be against him in full force: And the said James further says, that within the space of eight months from the time of the making and delivery of the said writing-obligatory as an *escrow* to the said C. D. as aforesaid, for the purpose aforesaid, to wit, on, &c. the said A. B. did secure the repayment of the said sum of money to the said Richard, by a mortgage upon certain freehold premises of him the said A. B. which said mortgage the said Richard then and there accepted and received as a security for the repayment of the said sum of money so by him lent to the said A. B. as aforesaid, whereby the said writing-obligatory of the said James so delivered to the said C. D. became and was wholly discharged, annulled, and vacated; and this, &c. wherefore, &c. if, &c.

Replication, that defendant did not deliver the bond as an *escrow*.

And the said Richard, as to the said plea of the said James by him lastly above pleaded, says, *precludi non*; because he says, that the said James, on the same day and year in that behalf above-mentioned, at, &c. in, &c. became held and firmly bound unto the said Richard in manner and form as the said Richard hath in his said declaration above alledged, and did not deliver the said writing-obligatory to the said C. D. as an *escrow* to be by him kept

in the said condition as in the said plea of the said James
 oned, *modo et forma*; and this he prays may be enquired
 country, &c.
Drawn by MR. GRAHAM.

as to me that there can be no
 supporting this plea, even
 the defendant can prove the
 of his bill in equity, for the
 ates in the bill that the bond
 d to the plaintiff upon con-
 is made void by the accept-

ance of other securities; therefore it was
 delivered as an absolute bond, and not as
 an escrow, as stated. This alone is suffi-
 cient in a court of law to falsify the de-
 fendant's plea, and intitle the plaintiff to
 his judgment, without proving the other
 circumstances of the case.

Co. Litt. 36.
 2. Black. Comm.
 307.
 9. Co. Rep. 137.

J. G.

the said defendant, by A. B. his attorney, comes and de-
 wrong and injury, when, &c. and says, that he ought
 charged with the said debt by means of the said writings-
 7, or any of them; because he says, that the said writ-
 gatory, or any or either of them, are not his deeds; and
 : puts himself upon the country, &c. the said plaintiffs
 ke, &c.: And the said defendant, by leave of, &c. says,
 aid plaintiffs ought not to have execution for the debt
 or any damages, by reason of the detention of that debt
 idged to them against the person of him the said defend-
 ause he says, that the said causes of action did accrue be-
 irst day of January 1775, and that he the said plaintiff, on
 irst day of January 1775, was actually beyond the seas in
 arts, to wit, off the Western Islands, and that the said
 did return and surrender himself unto the keeper of the
 bench prison in Southwark, in the county of Surry, pur-
 in act of parliament made in the twenty-eighth year of the
 our lord the now king, intituled, "An Act for the Relief
 ent Debtors," and was duly discharged according to the
 he said act at the general quarter sessions of the peace of
 ord the king, holden at St. Margaret's Hill in and for the
 f Surry aforesaid, on, &c. in the twenty-ninth year of
 of our said lord the now king, before and others,
 ows, then justices of our said lord the king, assigned to
 the peace in the said county, and also to hear and deter-
 ers felonies, trespasses, and other misdeeds committed in the
 ty; and this, &c. wherefore, &c. if the said plaintiffs
 have their execution in this behalf against the person of
 lefendant.

Plea to (decla-
 ration in debt on
 bond, by execu-
 tors of obligee
 versus obligor,
 on three several
 bonds), *Non est
 factum.*

2d Plea, that the
 defendant was
 discharged by
 the insolvent act
 as a fugitive.

GEO. WYNN.

he said plaintiffs, as to the said plea of the said defendant
 astly above pleaded in bar of execution for the debt and
 aforesaid against the person of the said defendant, say, that they
 of any thing in the same plea contained, ought not to be
 om having execution of the debt aforesaid in the said decla-
 entioned, and for the damages by them sustained by rea-
 e detention of that debt against the person of him the
 ndant; because they say, that the said defendant was not
 duly

Replication
 thereto, issue on
 discharge.

duly discharged, according to the form of the said act of parliament in the said plea mentioned; and this they pray may be enquired of by the country; and the said defendant doth the like, &c.; therefore, &c.

J. YATES.

Plea.

Afterwards, at the day and place within contained, before the right honourable William lord Mansfield, the chief justice within written, there being associated unto him A. B. gentleman, by force of the statute in that case made and provided, came as well the within-named plaintiffs, executors of the last will and testament of the within-named W. E. deceased, by their attorney within contained, as the within-named defendant by his attorney within-named, and the jurors of the jury whereof mention is within made being demanded likewise come, and being ballotted for, elected, tried, and sworn to speak the truth of the matters within contained as to the first issue within joined between the parties, do say upon their oath that the within-named writings-obligatory are the deeds, and each of them is the deed of the said defendant, as the said plaintiffs have within alledged against the said defendant:

Verdict for plaintiff on the first issue.

Verdict for plaintiff on the second issue.

And as to the second issue within joined between the said parties, the said jurors upon their oath do say, that the said defendant was not duly discharged according to the form of the said act of parliament within-mentioned, as the said defendant hath within in pleading alledged, and they assess the damages of the said plaintiffs by them sustained on occasion of the detention of the said debt within demanded, over and above their costs and charges by them laid out about their suit in this behalf to one shilling, and for those costs and charges to forty shillings; therefore it is considered that the said plaintiffs do recover against the said defendant their said debt and the aforesaid damages by the jury aforesaid in form aforesaid assessed, and also twenty-two pounds for their said costs and charges by the court of our said lord the king now here adjudged of increase to the said plaintiffs by their assent, which damages amount in the whole two twenty-two pounds; and the said defendant in mercy, &c.

Drawn by MR. WARREN.

Easter Term, 27. Geo. III.

Plea to a declaration in debt on bond.

1st, *Non est factum*; 2d, Plea, *Solvit post diem*; 3d Plea, Set-off.

AND the said Robert, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, and it is read to him, &c.; he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: "The condition, &c." (which was in the common form), which being read and heard, the said Robert says *actio non*; because he says, that the said writing-obligatory is not the deed of him the said Robert; and of this he puts himself upon the country; and the said John doth likewise the same: And for further plea in this behalf he the said Robert, by leave of, &c. says *actio non*; because he says, that he the said Robert, after the said eighteenth of August 1767, and before the suing forth of the ginal writ of the said plaintiff, to wit, on, &c. A. D. 1781, at, &c.

&c. in, &c. paid to the said plaintiff the said sum of forty-two pounds, together with all interest due thereon, according to the form and effect of the said condition of the said writing-obligatory; and this, &c.; wherefore, &c. if, &c.: And for further plea in this behalf, he the said Robert, by like leave of, &c. says *actio non*; because he says, that at the time of suing forth the original writ of the said plaintiff in this behalf, there was not due and owing from the said defendant to the said John upon the said writing-obligatory, by virtue of the condition thereof, for principal and interest of the said sum of forty-two pounds, a much less sum than eighty-four pounds, to wit, the sum of forty pounds and no more, to wit, at, &c.: And the said defendant further says, that the said plaintiff, before and at the time of suing forth the original writ of the said plaintiff, at, &c. was and still is indebted to the said defendant in a much larger sum of money than the said sum of money so due and owing from the said defendant to the said plaintiff upon the said writing-obligatory, by virtue of the condition thereof, that is to say, in the sum of forty pounds of, &c. for the use, occupation, and enjoyment of divers messuages, lands, and tenements, with the appurtenances of the said defendant, situate and being in the parish of, &c. for a long space of time before then elapsed, held, occupied, and enjoyed by the said plaintiff, by the permission and sufferance of the said defendant, and at the special instance and request of the said John, and in the further sum of twenty pounds of, &c. for divers cattle, to wit, horses, &c. and other goods, wares, and merchandizes before that time sold and delivered by the said defendant to the said John, at his special instance and request, and in the further sum of, &c. (money paid, &c. ditto lent, &c. account stated); which said several sums of money so due and owing from the said plaintiff to the said defendant are still wholly unpaid, and exceed the said sum of forty pounds so remaining due and owing from the said defendant to the said plaintiff, by virtue of the condition of the said writing-obligatory; which said several sums of money, or so much thereof as shall be necessary in this behalf, he the said Robert always hath been, and still is ready and willing, and now offers to set off against the said sum of forty pounds so remaining due and payable by the condition of the said writing-obligatory, according to the form of the statute in such case made and provided; and this, &c. wherefore, &c. if, &c.: And for further plea in this behalf, by like leave of, &c. says *actio non*; because he says, that at the time of suing forth the original writ of the said John in this suit, there was due and owing from the said Robert to the said John upon the said writing-obligatory, by virtue of the condition thereof, for principal and interest of the said sum of forty-two pounds, a much less sum of money than eighty-four pounds, to wit, the sum of sixteen pounds and no more, to wit, at, &c. (same as third plea the end).

Drawn by MR. CROMPTON.

And

Replication to
the last plea.

And the said John, as to the said plea of the said Robert by him secondly above pleaded in bar, says, that he, by reason of any thing by the said Robert in that plea alledged, *precludi non*; because he says, that the said Robert did not pay to him the said John the said sum of forty-two pounds in that plea mentioned, together with all interest due thereon, in manner and form, &c.; and this he prays, &c.; and the said Robert doth so likewise: And the said plaintiff, as to the said plea of the said defendant by him thirdly above pleaded, says, that he, by reason of, &c. *precludi non*; because protesting that a much larger sum of money than the said sum of forty pounds in that plea mentioned, was and is due and owing from the said defendant to him the said plaintiff upon the said obligation, by virtue of the condition thereof, for principal and interest of the said sum of forty-two pounds; for replication in this behalf the said plaintiff says, that he was not nor is indebted to the said John in manner and form as the said defendant hath above in that plea alledged; and this he prays, &c. (The like replication to fourth plea.)

Plea thereto
(oyer of bond and
condition, which
was given by the
obligee for the
good behaviour
of one A. B. as
a clerk), per-
formance of con-
ditions by A. B.

The condition
was, that O. H.
was to give an
account every
week of the mo-
ney he received,
and the goods he
sold, and that if
he died in their
service, and was
found to be in-
debted to them,
then the obligees
(defendants)
were to make
good such defi-
ciency.

And the said James, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and prays oyer of the said writing-obligatory, and it is read to him in these words following, that is to say, "Know all men, &c." he also prays oyer of the condition of the said writing-obligatory, and it is read to him in these words following, that is to say: "Whereas, &c. &c. (set forth the condition, which was for the good behaviour of one O. H. plaintiff's clerk in the brewing business); which being read and heard, the said James saith *actio non*; because he saith, that the said O. H. in the said condition mentioned did, during all the time of his service in the said office or place, carefully or diligently use and employ himself and his best endeavours in the said office or place, and did once in every week weekly and as often as he was required, during the continuance of his service in the said office or place, make and deliver to them the said plaintiffs, upon request, a just, perfect, and true account in writing at the messuage or brewhouse of them the said plaintiffs, and elsewhere, of all such beer, ale, monies, goods, and effects of them the said plaintiffs, which by any means whatsoever came to the hands, care, charge, or custody of him the said O. H. and also did, from week to week, weekly and oftener, during his said service, content and pay unto the said plaintiffs, or to some or one of them, all such sum and sums of money as he the said O. H. had received of any person or persons whatsoever due or in anywise belonging unto them the said plaintiffs; and that the said O. H. did not deliver or trust to any customer or customers, or any other person or persons whomsoever at the time of the making of the said writing-obligatory not served by the said plaintiffs any quantity or quantities of beer, ale,

or other goods, before such time as he had made the said plaintiffs acquainted therewith, and had their consent thereunto; that the said O. H. did not secrete, embezzle, purloin, or misdemean any of the monies, goods, chattels, stores, and effects of the said plaintiffs, and that the said O. H. did not depart or withdraw himself from the said service before payment and satisfaction had been made by him unto the said plaintiffs, or unto any one of them, of all such sum or sums of money, debts, and costs, as he had been found indebted to them, or any or either of them, according to the tenor and effect of the said condition of the said writing-obligatory, and that the said O. H. did not depart this life in the service or office of clerk to the said plaintiffs, or any of them, to wit, at, &c.; and this, &c.; wherefore, if, &c.

S. LE BLANC.

And the said John Hale, Joseph Hale, and Thomas Symonds, by a day to imparl to the said plea, and then to reply to the same, and it is granted to them, &c.; and thereupon a day is given to the parties aforesaid to come before the justices of our lord king of the bench on the morrow of All Souls, that is to wit, for the said Joseph, John, and Thomas, to imparl to the said justices, and then to reply to the same, &c.; and upon that day came the said Joseph and Thomas, by A. B. their attorney, and the said John cometh not, and the said Joseph and Thomas giveth the record here to understand and be informed, that after the last continuance of the plea aforesaid, and before the said day of the morrow of All Souls, to wit, on, &c. at, &c. the said John died, and the said Joseph and Thomas survived him; which allegation the defendant doth not deny; therefore let no further proceedings be had at the suit of the said John Hale.

Suggestion of the death of one of the plaintiffs, and *quis darrius* continuance.

Drawn by MR. GRAHAM.

Michaelmas Term, 28. Geo. III.

And the said Joseph and Thomas, as to the said plea of the said defendant by him above pleaded in bar, say, that they by reason of any thing by the said James in that plea alledged, *precludi non*; because the said Joseph and Thomas, according to the form of the statute in such case made and provided, say, that after the making of the said writing-obligatory, and during the continuance of the said O. H. in the said office or office of clerk in the said condition of the said writing-obligatory mentioned, to wit, on, &c. at, &c. he the said O. H. in his said place or office of clerk as aforesaid, received divers large sums of money for and on account of the said Joseph and Thomas, that is to say, of and from one A. B. a large sum of money, to wit, the sum of nine pounds due and owing to the said A. B. to the said John, Joseph, and Thomas, and of and from one C. D. a certain other large sum of money, to wit, the sum of seventeen pounds due and owing to the said John, Joseph, and Thomas from the said C. D. and of and from one E. F. a certain other large sum of money, that is to say, the sum of

Replication, assigning breaches that O. H. received several sums of money, and never accounted, but embezzled and spent the same.

General breach.

of twenty-one pounds due and owing from the said E. F. to the said John, Joseph, and Thomas, and which said several sums of money, or any part thereof, he the said O. H. did not at any time pay or cause to be paid to the said John, Joseph, or Thomas, or any or either of them, but on the contrary thereof afterwards, to wit, on, &c. at, &c. did embezzle and mispend, and convert and dispose thereof to his own use, contrary to the form and effect of the said condition of the said writing-obligatory: And the said plaintiffs further say, that after the making the said writing-obligatory, and during the continuance of the said O. H. in the said place or office of clerk in the said condition of the said writing-obligatory mentioned, to wit, at divers days and times between the fourth day of, &c. and the day of suing forth the original writ of the said plaintiffs, at, &c. the said O. H. received in his said office or place of clerk as aforesaid, divers other large sums of money of and belonging to them the said plaintiffs in manner following, that is to say, divers sums of money, amounting in the whole to pounds, of and from the said John, the same belonging to the said plaintiffs, and also divers other sums of money, amounting in the whole to pounds, of and from the said Joseph, the same belonging to the said plaintiffs, and also divers other sums of money, amounting in the whole to pounds, of and from the said Thomas, the same belonging to them the said plaintiffs, and also divers other sums of money, amounting in the whole to pounds, of and from, &c. the same belonging to the said plaintiffs, which said several sums of money last-mentioned, or any part thereof, he the said O. H. hath not yet accounted for or paid to the said plaintiffs, or any or either of them, but on the contrary thereof afterwards, and before the suing forth the original writ of the said plaintiffs, to wit, on, &c. at, &c. did embezzle and mispend, and convert and dispose of the same and every part thereof to his own use, contrary to the form and effect of the said condition of the said writing-obligatory; and this, &c.; wherefore, &c. if, &c.

By the 8th and 9th of Wil. 3. ch. 11. it is necessary to state the several breaches the plaintiffs mean to recover for, that

the jury may, according to that statute, assess damages beyond which execution cannot be sued out. S. LAWRENCE.

Plea to declaration in debt on bond (oyer of bond and condition, which was, that a marriage being about to be had between

AND the said Samuel, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory in the said declaration mentioned, and it is read to him, &c.; he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words: "Whereas, &c. (the condition of the bond was, that a marriage being to be solemnized between plaintiff and one of the daughters of defendant, defendant promised to give plaintiff two hundred pounds, or as much as he should give any other of his daughters, which was to be paid by instalments, and when paid, the bond to be void), that the defendant paid part of the money, and that at the time of suing out the writ of plaintiff, the time of payment for the remainder was not come, and that defendant did not give any other of his daughters more than two hundred pounds.

nized

nized between plaintiff and one of the daughters of defendant, it was agreed that defendant should give plaintiff two hundred pounds with his daughter, or as much as he gave to his other daughters; the two hundred pounds was to be paid by instalments, and on payment of the money the bond was to be void); which being read and heard, he the said Samuel says *actio non*; because he says, that he the said Samuel, after the making the said writing-obligatory, and before the suing forth the original writ of the said plaintiff, to wit, on, &c. next ensuing the date of the said writing-obligatory, did pay and cause to be paid unto the said plaintiff one hundred pounds of lawful money of Great Britain, part of the said sum of two hundred pounds in the said condition of the said writing-obligatory mentioned, according to the tenor and effect of the said condition of the said writing-obligatory, to wit, at, &c.: And he the said Samuel further says, that he the said Samuel afterwards, and before the suing forth the original writ of the said plaintiff, to wit, on, &c. did pay and cause to be paid to the said plaintiff the sum of fifty pounds of like lawful money, other part of the said sum of two hundred pounds in the said condition of the said writing-obligatory mentioned, according to the tenor and effect of the said condition of the said writing-obligatory; and as to the last-mentioned payment of fifty pounds mentioned in the condition of the said writing-obligatory, he the said Samuel says, that at the time of suing forth the original writ of the said plaintiff, the time of making the said last-mentioned payment of fifty pounds was not come: And the said Samuel further says, that he the said Samuel did not at any time or times after the making of the said writing-obligatory, or at any other time whatsoever, give or engage to give to either of his other daughters in the said condition of the said writing-obligatory mentioned, any greater portion or fortune for her advancement in life than the sum of two hundred pounds, to wit, at, &c.; and this, &c.; wherefore, &c.: And for further plea, &c. (a set-off for goods sold and delivered, &c. and last at the conclusion insert as follows): And the said Samuel further says, that he the said Samuel did not at any time or times after the making the said writing-obligatory, and before the suing forth the original writ of the said plaintiff, or at any other time whatsoever, give or engage to, &c.; and this, &c.; wherefore, &c.

Drawn by MR. GRAHAM.

And the said plaintiff, as to the said plea of the said Samuel by him first above pleaded in bar, *precludi non*; because he says, that the said Samuel did not pay to the said plaintiff the said two several sums of one hundred pounds and fifty pounds in the condition of the said writing-obligatory mentioned, or either of them, or any part thereof, according to the tenor and effect of the said writing-obligatory, and the condition thereof; and this he prays, &c. and he the said Samuel doth so likewise; and the said Charles, &c. (issue a set-off.)

Replication that defendant did not pay, &c.

And

Plea to (declara-
tion in debt on
arbitration
bond) oyer of
condition, which
was for keeping
an award, and
that the arbitra-
tors made no
award.

And the said Thomas, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and prays oyer of the said writing-obligatory, and it is read to him in these words, to wit, &c.; he likewise prays oyer of the condition of the said writing-obligatory, and it is read to him in these words, that is to say, "The condition of, &c." (the condition of bond was, that the parties had submitted to the arbitration of A. B. C. D. and E. F. and that they were to make their award on or before the twenty-fourth of December; which being read and heard, the said Thomas says *actio non*; because he says, that the said arbitrators mentioned in the said condition, or any two of them, did not on or before the twenty-fourth of December mentioned in the said condition, make any award in writing of or concerning the matter above referred to them by the said plaintiffs and defendant; and this, &c.; wherefore, &c. if, &c.

E. LAW.

Replication, set-
ting forth an a-
ward, and as-
signing breach
of non payment
of money a-
warded.

And the said John, as to the said plea of the said Thomas by him above pleaded in bar, says, that he by reason of any thing by the said Thomas in that plea above alledged, ought not to be barred from having his aforesaid action thereof maintained against him, &c.; because he says, that the said A. B. and C. D. two of the aforesaid arbitrators in the said condition of the said writing-obligatory named, after the making of the said writing obligatory, and within the time limited and appointed by the said condition for the making of their award of and concerning the premises aforesaid, that is to say, on, &c. being the said twenty-fourth day of, &c. in the said condition mentioned, at, &c. having taken upon themselves the burthen of this award, did in due manner make their award in writing under their hands and seals, of and concerning the premises in the said condition mentioned, and thereby referred to them by the said plaintiff and defendant, ready to be delivered to the parties in difference, or such of them as should desire the same; by which said award they the said A. B. and C. D. two of the arbitrators aforesaid, did then and there award and order that &c. &c. [set forth the award]; of which said award the said Thomas afterwards, to wit, on, &c. at, &c. had notice, and for assigning several breaches of the said award in the said condition of the said writing-obligatory mentioned in the several matters and things therein contained on the part and behalf of the said Thomas to be performed, fulfilled, and kept, according to the form of the statute in such case made and provided, the said John says, that the costs due to N. O. gentleman, his the said plaintiff's attorney for carrying on the said prosecution in the said award mentioned against the said Thomas, amounting to a large sum of money, to wit, the sum of thirty pounds or lawful, &c. whereof the said Thomas afterwards, to wit, on, &c. at, &c. had notice; yet the said Thomas did not at any time before the said first of June next after the making of the said award, pay or cause to be paid the aforesaid costs, or any part thereof, either to him or to his said attorney the said N. O. but hath therein wholly failed and made default

default, to wit, at, &c. contrary to the form and effect of the said award in that behalf made as aforesaid: And for a further breach of the said award in the said condition mentioned, according to the form of the aforesaid statute, the said plaintiff says, that the said Thomas did not on or before the said first day of, &c. next after the making of the aforesaid award, pay or cause to be paid the said sum of one pound and threepence of, &c. to him the said plaintiff, nor hath he yet paid the same, or any part thereof, to him, but hath therein wholly failed and made default, contrary to the form and effect of the said award in that behalf made as aforesaid; and this, &c.; wherefore, &c. and his debt aforesaid, together with his damages, by reason of the detaining thereof to be adjudged to him, &c.

J. BROWN.

In this replication it is necessary not only to shew an award made, but also a breach, 5. Com. 104. It would have

been good had it assigned a breach as to the non-payment of the one pound and threepence only, 2. Will. 267.

And the said defendant, in his proper person, comes and defends the wrong and injury, when, &c. and praysoyer of the said writing-obligatory, and it is read to him in these words, to wit, &c. &c. (Set out the condition verbatim, which was to pay forty pounds to Mitchel, the obligee, on the second of May 1763); which being read and heard, the said defendant says, that the said William and J. M. the executor, ought not to have or maintain their aforesaid action thereof against him; because he says, that he the said defendant paid to the said J. M. deceased, in his lifetime, with interest for the same after the rate aforesaid, on the said second of May, in the said condition of the said writing-obligatory mentioned, according to the form and effect of the said condition, to wit, at, &c.; and this, &c. wherefore, &c. if, &c. And for further plea in this behalf the said defendant, by leave of, &c. according to, &c. says *actio non*; because he says; that he the said Thomas, after the said second of May, in the said condition of the said writing-obligatory mentioned, and before the exhibiting the bill of the said William and J. M. the executor, to wit, on, &c. paid to the said J. M. the testator the said sum of forty pounds in the said condition mentioned, together with all interest then due thereon, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c.: And for a further plea in this behalf, the said Thomas, by like leave of, &c. says *actio non*; because he says, that he the said defendant, after the said second of May, in the said condition of the said writing-obligatory mentioned, and before the exhibiting the said bill of the said plaintiffs, and after the death of the said J. M. the testator, to wit, on, &c. paid to the said plaintiffs the said sum of forty pounds in the said condition mentioned, together with all interest due thereon, to wit, at, &c.; and this, &c.; wherefore, &c. if, &c.: And for a further plea in this behalf, the said John, by like leave of, &c. says, that the

Plea to (declaration in debt on bond to testator) *solvit ad diem* to testator in his lifetime.

Solvit post diem to testator.

Solvit post diem to plaintiffs.

Insolvent Act of 1. Geo. 3. said pleaded.

said plaintiffs ought not to have execution against the person of the said Thomas, or against his necessary wearing apparel and bedding for himself and his family, or against his working tools and implements necessary for his trade and occupation, not exceeding the value of ten pounds in the whole; because he says, that the said debt or sum of money in the said declaration mentioned was contracted and due before the twenty-fifth day of October 1760, mentioned in a certain act of parliament made at Westminster, in the county of Middlesex, in the first year of the reign of our lord the now king, intituled, “An Act for the Relief of Insolvent Debtors;” and that he the said Thomas, before and on the twenty-fifth of October 1760, was actually a prisoner in the prison of our lord the now king of his palace of Westminster, by virtue of a certain writ of our lord the now king called a *capias ad satisfaciendum* before that time sued out of the court of our lord the now king at Westminster, at the suit of one J. H. and that he the said Thomas did remain and continue such a prisoner in the said prison as aforesaid, until the time of his discharge hereinafter mentioned; and that thereupon the said Thomas afterwards, to wit, at the general quarter sessions of the peace of our sovereign lord the king, holden at Kingston upon Thames by adjournment, in and for the county of Surry, on Tuesday the sixth of October 1761, was in due manner, and by force of and according to the form of the said act, discharged; and this, &c.; wherefore, &c. if the said plaintiffs ought to have any execution against the said person of the said Thomas, or against his necessary wearing apparel and bedding for himself and his family, or against his working tools and implements necessary for his trade and occupation, not exceeding the value of ten pounds in the whole.

Replication.
Issue on three
first pleas.

And the said William and John Mitchell, the executor, as to the said plea of the said Thomas by him first above pleaded in bar, say, that they, by reason of any thing therein contained, ought not to be barred from having and maintaining their aforesaid action thereof against him the said Thomas; because they say, that the said Thomas did not pay to the said J. M. deceased, in his lifetime, the said sum of forty pounds with interest for the same, according to the form and effect of the said condition of the said writing-obligatory, or any part thereof, in manner and form as the said Thomas hath above in his said plea first above pleaded alledged; and this the said plaintiffs pray may be enquired of by the country, &c. and the said Thomas doth the like, &c.: And the said plaintiffs, as to the said plea of the said Thomas by him secondly above pleaded in bar, say, that they, by reason of any thing in that plea contained, ought not to be barred from having and maintaining their aforesaid action thereof against him the said Thomas; because they say, that the said Thomas did not pay, &c. (as before): And the said plaintiffs, as to the said plea of the said Thomas by him thirdly above pleaded in bar, say, that they, by

reason

reason of any thing in that plea contained, ought not to be barred from having and maintaining their aforesaid action thereof against him the said Thomas; because they say, that he the said Thomas did not pay to the said plaintiffs the said sum of forty pounds in the said condition mentioned, with interest for the same, or any part thereof, in manner and form as the said Thomas hath above in his said plea thirdly above pleaded alledged; and this the said plaintiffs pray, &c.; and the said Thomas doth the like, &c.: And the said plaintiffs, as to the said plea of the said Thomas by him lastly above pleaded in bar, say, that since the said Thomas cannot deny the said action of the said plaintiffs, nor that he doth detain from them the said plaintiffs, as executors as aforesaid, the debt aforesaid in the said declaration mentioned, as the said plaintiffs have above complained against him, nor but that the said plaintiffs ought to recover against him the said defendant their debt aforesaid, together with their damages by reason of the detention of that debt, and forasmuch as the said plaintiffs cannot deny the said several matters contained in the said plea of the said Thomas by him lastly above pleaded in bar, but admit the same to be true, they the said plaintiffs pray judgment for the said debt, together with their damages, by reason of the detention of that debt to be adjudged to them, according to the form of the statute in such case made and provided, in such manner that the person of the said Thomas, and his necessary wearing apparel and bedding for himself and his family, and his working tools and implements necessary for his trade and occupation, not exceeding the value of ten pounds in the whole, be always exempt and discharged from all manner of execution of the said judgment; but because it is unknown at present whether the said Thomas will be convicted of the premises aforesaid, whereof the said parties have above put themselves upon the country, or not let the giving judgment of the plea of the said Thomas by him lastly above pleaded in bar be staid until the issue aforesaid be determined, and to try the issues aforesaid, between the parties aforesaid, above named, let a jury, &c.

4th Replication.

AND the said Robert, by A. B. his attorney, comes and demands the wrong and injury, when, &c. and prays oyer of the said writing-obligatory, and it is read to him, &c. he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, that is to say: Whereas in and by a certain indenture of agreement, bearing even date herewith, and made or mentioned to be made between B. F. and the above-named W. Wright and R. P.; the said W. W. and R. P. have agreed to employ the said above-bound B. F. as their agent and manager, to conduct, manage, and carry on their account, and for their use and benefit the trade and business, &c. &c. [Set forth the condition to plaintiffs, entrusted to the care of A. B. General performance of affirmative and compliance with negative covenants.

Plea to (declaration in debt on bond) oyer of condition, which was for performance of covenants contained in an agreement, as well as other matters contained in a bond relative to the management of an inn belonging covenants, and

tion, which was, that B. F. was to carry on the business of a vintner for the plaintiffs, as their agent, and to render a true account of what business he carried on, and the money he received] which being read and heard, the said defendant says, that the said W. W. and R. P. ought not to have or maintain their aforesaid action thereof against him the said Robert; because he says, that the said indenture, in the said condition above specified, was made at London, to wit, at the parish of St. Mary-le-Bow, in the ward of Cheap, on the twenty-eighth day of September, in the thirteenth year of the reign of our sovereign lord the now king, between the said W. W. and R. P. of Garlick-hill, in the city of London, wine-merchants, copartners, of the one part, and B. F. by the name of, &c. vintner, of the other part; by which indenture, after reciting that W. W. and R. P. had agreed to employ the said B. F. as their agent and manager, to manage, conduct, and carry on their account, and for their use and benefit the trade and business of a vintner and tavern keeper, in a certain house called or known by the name of, &c. upon the terms and conditions, and under the covenants therein-
 The heads of after mentioned: It is witnessed, &c. &c. [the covenants were the covenants. that B. F. was to carry on the business for the plaintiffs, and should not embezzle any of their property, and not absent himself, and should endeavour to promote the sale of liquors to the best of his power, and should keep regular books of account, and should produce them every week, if required; and that the plaintiffs should at all times have free access to the cellars, and that the said B. F. should not entertain any of his friends at plaintiffs costs, and that when B. F. ceased to be plaintiffs agent he should deliver up the house and furniture in good condition, reasonable wear and tear excepted, and that the plaintiffs should allow B. F. five pounds for every one hundred pounds, and that if either of the parties should wish to quit, three months notice was to be given of such their intentions]: And the said defendant further saith, that the said B. F. at any time from the making of the said indenture, hath not embezzled, mispent, lost, defaced, cancelled, destroyed, or made away with any liquors, goods, chattels, monies, papers, or other effects belonging to the said W. W. and R. P. where-
 Special compli- with he the said B. F. hath been since that time entrusted by them; and the said Robert further saith, that the said B. F. hath not since the making of the said indenture, on any account or pretence whatsoever, during the continuance of the employ of the said B. F. in the service of the said W. W. and R. P. absented himself from the said house without the knowledge or consent of the said W. W. and R. P. first had and obtained for that purpose; and the said Robert further says, that the said W. W. and R. P. from time to time, and at all times during the continuance of the said B. F. in their said employ, have had free access to their vaults and cellars under the said tavern, and all other the premises thereunto belonging, to view and examine the state and condition of the liquors, and to manage and to cooper the same, as also to view all the house-

hold goods and furniture in and about the said house and premises, or any part thereof, according to the tenor and effect of the said covenant so made in that behalf as aforesaid; and the said Robert further says, that the said B. F. hath not, since the making of the said indenture, and during his continuance in the said employment, hired, or employed, or discharged any servant or servants without the consent or approbation of the said W. W. and R. P. first had and obtained, and until, wherein any difference between the said B. F. and such servant or servants, the matter in difference between them had first been submitted and made known to the said W. W. and R. P. but on the contrary thereof, all and every the transactions and dealings touching or concerning, or in anywise relative to the management, conducting, and carrying on the said business, were from time to time under the immediate inspection, direction, and regulation of the said W. W. and R. P. and with their consent only: And the said Robert further saith, that the said B. F. did not, from the time of the making of the said indenture, and whilst he was in the said employment, receive and entertain any of his friends, or relations, or other persons, at the expence of the said W. W. and R. P. so as to confound, lessen, and consume the property of them the said W. W. and R. P. but at the sole expence of the said B. F. otherwise than where the same met with the concurrent approbation of the said W. W. and R. P.: And as to all covenants, clauses, conditions, and agreements, made and entered upon in and by the said indenture, on the part of the said B. F. to be observed, performed, fulfilled, and kept, the said Robert saith, that he the said B. F. from the time of the making of the said writing-obligatory, and during his continuance of his employment in the service of the said W. W. and R. P. observed, performed, fulfilled, and kept, all and singular the covenants, clauses, conditions, and agreements, according to the true intent and meaning of the said indenture; and this, &c.; wherefore, &c.; &c.

General pet-
formance.

And the said W. W. and R. P. say, that they, by reason of any thing by the said Robert above in pleading alledged, ought not to be barred from having and maintaining their aforesaid action there-against him; because they say, that the said B. F. after the making of the said writing-obligatory, and whilst he was employed by the said W. W. and R. P. as their agent and manager, to conduct, manage, and carry on the said trade and business of a innkeeper and tavern-keeper at the dog-tavern aforesaid, to wit, on, &c. A. D. 1773, and on divers other days and times between that day and the twenty-fifth day of February, A. D. 1776, did embezzle, mispend, loose, and wittingly and willingly destroy and take away with liquors, goods, and chattels, monies, and other effects, to wit, one thousand gallons of wine, &c. of the value of one thousand pounds, and also one thousand pounds in monies numbered, that belonged to the said W. W. and R. P. and wherewith the said B. F. was entrusted by the said W. W. and R. P. against the form and effect of the said writing-obligatory and the condition

Replication, as-
signing breaches
for embezzling
wine, and mak-
ing false ac-
counts.

writing-obligatory and the condition thereof, out on t
thereof, hath refused and neglected to account for ar
the said W. W. and R. P. divers sums of money, an
the whole to the sum of one thousand pounds, which w
that time, received by, paid to, and committed to t
custody of the said B. F. on the account and for the us
W. W. and R. P. contrary to the form and effect of th
ing-obligatory, and the condition thereof, to wit, at
this, &c.; wherefore, &c. and their debt, together
damages by reason of the detaining of the said debt, to
to them, &c.

Rejoinder, if. And the said Robert, as to the said plea of the said
the R. P. by them above pleaded by way of reply to the said
breaches. the said Robert by him above pleaded in bar, says, that the
and R. P. ought not to have or maintain their afore
thereof against him; because he says, that the said B.
making of the said writing-obligatory, and whilst he wa
by the said W. W. and R. P. as their agent and mana
duct, manage, and carry on the said trade and business
and tavern-keeper as aforesaid, did not embezzle, miss
and wittingly and willingly destroy and make away w
goods, and chattels, and monies, and other effects th
to the said W. W. and R. P. and wherewith he the sai
entrusted by the said W. W. and R. P. against the for
of the said writing-obligatory and the condition thereof
and term as the said W. W. and R. P. have above all
of this he the said Robert puts himself upon the count
said W. W. and R. P. doth so likewise: And the said
ther says, that the said B. F. did from time to time,
said continuance in his said employ under them the
and R. P. as aforesaid, well and truly account for and
said W. W. and R. P. all such sum and sums of money
received, paid to, or committed to the care and custod

within named, A. B. gentleman, being associated unto him by
 force of the statute in that case made and provided, comes as well
 e within named W. W. and R. P. as the within Robert, by
 their attornies within mentioned, and the jurors of the jury within
 named being summoned, likewise come, who, to speak the truth
 the matter within contained, being elected, tried, and sworn,
 to the issue between the parties first within joined upon their
 first day, that the within named B. F. after the making of the said
 writing-obligatory within mentioned, and whilst he the said B. F.
 is employed by the said W. W. and R. P. as their agent and
 manager, to conduct, manage, and carry on the trade and busi-
 ness of a vintner and tavern-keeper, at the Dog Tavern as within
 mentioned, did embezzle, misspend, loose, and wittingly and
 willingly destroy and make away with liquors, goods, chattels,
 wares, and other effects, that belonged to the said W. W. and
 R. P. and wherewith the said B. F. was entrusted by the said
 W. W. and R. P. against the form and effect of the within men-
 tioned writing-obligatory and the condition thereof, in manner and
 form as the said W. W. and R. P. have within alledged: And as
 the last issue between the parties within joined, the jurors
 aforesaid, upon their said oath further say, that the within named
 B. F. did not from time to time, during his continuance in his
 employment under them the said W. W. and R. P. as within
 mentioned, well and truly account for and pay unto the said W. W.
 and R. P. all and every sum and sums of money which were re-
 ceived by, and paid to, and committed to the care and custody of
 the said B. F. on the account and for the use of the said W. W.
 and R. P. according to the form and effect of the said writing-ob-
 ligatory and the condition thereof within mentioned, in manner
 and form as the said W. W. and R. P. have within alledged; and
 they assess the damages of the said W. W. and R. P. by occasion
 of the detention of the debt within demanded, over and above their
 costs and charges by them about their suit in this behalf expended,
 at one shilling; and for their costs and charges to forty shillings;
 they assess the damages of the said W. W. and R. P. by occa-
 sion of the breaches within mentioned to five pounds, by virtue of the
 statute in that case made and provided.

Verdict for the
 plaintiff on the
 first issue.

Verdict for the
 plaintiff on the
 last issue.

G. WOOD.

The statute alluded to in this Postea is 8, 9, Wm. 3. c. 11, 5, 8.

AND the said C. C. by C. M. his attorney, comes and de-
 nies the wrong and injury, when, &c. and craves oyer of the
 writing-obligatory, and it is read to him, &c. "Know, &c."
 which being read and heard, the said C. C. says, that he the said
 C. C. as administrator as aforesaid, ought not to be charged with
 the aforesaid debt by virtue of the said writing-obligatory; be-
 cause he says, that the said writing-obligatory is not the deed of
 the said C. F. deceased; and of this he puts himself upon the coun-
 sel; &c.; and the said John doth the like: And for further plea
 in his behalf, by leave of the court here for this purpose first had
 obtained, according to, &c. he the said C. C. says, that he the

Plea (to decla-
 ration in debt on
 bond against an
 administrator
 and guardian);
 1st, *Non est fac-
 tum.*

2d Plea, usury.

G g 4

said

said C. C. as administrator aforesaid, ought not to be charged with the said debt by virtue of the said writing-obligatory; because he says, that before the making the said writing-obligatory, to wit, on, &c. it was corruptly and against the form of the statute in such case made and provided, agreed by and between the said John and the said C. F. since deceased, in his lifetime, that the said John should lend and advance to the said C. F. since deceased, in his lifetime, the sum of eight hundred and fifty pounds of lawful, &c. and that if the said John should give day of payment thereof to the said C. F. deceased, in his lifetime, until and upon, &c. then next ensuing; and that the said C. F. since deceased, in his lifetime for the loan of the said sum of money, and for giving day of payment thereof as aforesaid, should give and pay to the said John, on, &c. then next ensuing, the sum of one hundred and fifty pounds of like lawful, &c. making together with the said sum of eight hundred and fifty pounds so lent and advanced by the said John to the said C. F. deceased, in his lifetime as aforesaid, the sum of one thousand pounds of like, &c. together with interest for the said sum of one thousand pounds from, &c. until the payment of the said sum of one thousand pounds to the said John; and that for securing the payment of the said sum of one thousand pounds with interest for the same as aforesaid, by the said C. F. since deceased, in his lifetime, to the said John, he the said C. F. since, &c. should make and seal, and as his act and deed deliver to the said John a certain writing-obligatory, and should thereby bind himself in the penal sum of two thousand pounds of good, &c. conditioned for the payment of the said sum of one thousand pounds with interest for the same as aforesaid, by the said C. F. since, &c. to the said John, on, &c. then next ensuing, to wit, at, &c.: And the said C. C. further says, that in pursuance of the said corrupt and unlawful agreement so made as aforesaid, the said John afterwards, to wit, on, &c. and on divers other days and times between that day and the first day of, &c. at, &c. lent and advanced to the said C. F. since, &c. divers sums of money, in the whole amounting to the said sum of eight hundred and fifty pounds; and that for the securing the payment thereof, together with the said sum of one hundred and fifty pounds to be given and paid to the said John as aforesaid, making together the sum of one thousand pounds with interest for the same, at the time and in manner aforesaid, he the said C. F. since, &c. in further pursuance of the said corrupt and unlawful agreement, then and there, to wit, on, &c. at, &c. made and sealed, and as his act and deed delivered to the said John, and the said John accepted and received of and from the said C. F. since, &c. the said writing-obligatory in the said declaration mentioned: And the said C. C. further says, that the said sum of one hundred and fifty pounds and interest so as aforesaid, agreed to be given and paid by the said C. F. since, &c. to the said John in manner and for the purposes aforesaid, exceed the rate of five pounds for the forbearance of one hundred pounds for one year, against the form of the statute, &c. by means whereof and by force of the said statute the said writing-obligatory is wholly

ally void in law ; and this he the said C. C. is ready to verify ;
before he prays judgment if he the said C. C. as administrator
foresaid, ought to be charged with the said debt by virtue of
said writing-obligatory, &c.

and the said John, as to the said plea of the said C. C. adminis- Replication,
or as afore said, by him lastly above pleaded in bar, says, that that it was not
withstanding any thing in that plea alledged, the said C. C. as a corrupt a-
ministrator as afore said, ought to be charged with the said debt by greement.
ue of the said writing-obligatory ; because protesting that the
plea, and the matters therein contained, are not sufficient in
to bar the said John from having his afore said action maintain-
gainst the said C. C. administrator as afore said ; and that he the
John hath no occasion, nor is bound by the law of the land,
make any answer to the same plea in manner and form above
ded ; nevertheless for replication in this behalf the said John
, that it was not corruptly and against the form of the statute
uch case made and provided agreed by and between the said John
the said C. F. since, &c. in manner and form as the said C.
above in his said plea alledged ; and this he the said John
re, &c. ; and, &c.

<p>SHAKESPEARE at suit of JACKSON AND WIFE, ADMINISTRATRIX, &c.</p>	}	<p>AND the said J. by J. S. his attor- ney, comes and defends the wrong and injury, when, &c. and prays oyer of the said writing-obligatory in the said claration, and it is granted ; and he also prays oyer of the con- on of the said writing-obligatory, and it is read to him in these rds, &c. [copy the condition, then say] which being read and rd, the said J. says, that the said W. and E. ought not to have maintain their afore said action against him ; because he says, t the said writing-obligatory was given to the said S. N. widow, eased, in the said declaration named, for securing the payment ninety-four pounds only, with interest, as expressed in the dition of the said bond, and that there is due and owing for ncipal and interest a certain sum, to wit, &c. : And the said further saith, the said principal sum of ninety-four pounds was t and advanced by one E. C. widow, deceased, in her lifetime, to said J. to wit, at, &c. and that the said writing-obligatory in the l declaration mentioned was given by the said J. to the said S. de- sed, at the request and by the direction of the said E. C. in trust for said E. C. and that all principal money and interest now due and ing from the said J. upon or by virtue of the afore said bond, and the condition thereof, is now due and owing to the legal re- mentative of the said E. C. which legal representative is un- own to the said J. : And the said J. further saith, that the said C. before the exhibiting of the bill of the said W. and E. to it, in the lifetime of the said E. C. and at the time of her death, is indebted to the said J. in a larger sum of money, than the money</p>	<p>Plea (to debt on bond, at the suit of administra- trix), that the bond was given to the plaintiff's testator for a sum of money lent to defend- ant by one A. B. now deceased, in trust for the said A. B. ; and that the money mentioned in the bond is due to the legal re- presentatives of A. B.</p>
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money due and owing from the said J. for principal and interest upon the aforesaid writing-obligatory, by the condition thereof, to wit, the sum of, &c. of lawful money of Great Britain, for divers wares, goods, &c. by the said J. sold and delivered to the said E. C. in her the said E. C.'s lifetime, which said sum of money so due and owing to the said J. from the said E. C. exceeds the sum now due and owing for principal and interest in the said writing-obligatory; out of which said sum of money he is ready and willing and hereby offers to set off and allow to the said W. and E. so much money as will be sufficient to satisfy and discharge all the money due and owing on the writing-obligatory aforesaid, by virtue of the condition thereof, and all damages sustained by occasion of detaining the same; and this, &c.; wherefore, &c. if, &c.

FRANCIS CONST.

Replication to the last plea, protesting that the money is not due to the legal representatives of A. B.; also protesting that A. B. was not indebted to the defendant; for replication the plaintiffs say, that the bond was given for a debt due from the defendant to the testator.

WICKSON AND WIFE }
against
SHAKSPEARE.

And the said W. and E. *precludi non*; because protesting that the said principal sum of ninety-four pounds was not lent and advanced by the said E. C. widow, deceased, in her lifetime, to the said J. as in that said plea of the said J. is alledged and set forth; and protesting also, that all principal money and interest now due and owing from the said J. upon and by virtue of the aforesaid bond by the condition, is not now due and owing to the legal representative of the said E. C. as in the said plea of the said J. is alledged and set forth; protesting also that the said E. C. before the exhibiting of the bill of the said W. and E. to wit, in the lifetime of the said E. C. and at the time of her death, was not indebted to the said J. in a larger sum of money than the money due and owing from the said J. for principal and interest upon the aforesaid writing-obligatory by the condition thereof, to wit, in the sum of, &c. of lawful money of Great Britain, for divers goods, &c. by the said J. sold and delivered to the said E. C. in her the said E. C.'s lifetime, as in the said plea of the said J. is alledged and set forth: The said W. and E. for replication in this behalf say, that the said writing-obligatory brought here into court was made and given by the said J. to the said S. N. deceased, in her lifetime, to and for her own proper use and benefit, and as a security for the payment of the said debt in the said declaration mentioned, the said debt being justly and truly due and owing from the said J. to the said S. N. in her lifetime, without this that the said writing-obligatory in the said declaration mentioned, was given by the said J. to the said S. deceased, at the request and by the direction of the said E. C. in manner and form as the said J. hath in pleading above alledged; and this the said W. and E. are ready to verify; wherefore they pray judgment of the said sum of money in the said writing-obligatory mentioned aforesaid, together with their damages by reason of the detaining thereof, to be adjudged to them.

ONERARI

— **ONERARI NON**); because he saith, that he made and delivered the said writing-obligatory to the said plaintiff for securing the payment of money upon a certain usurious and unlawful tract, made after the twenty-ninth day of September, A. D. 1782, to wit, on the first day of July, A. D. 1782, at, &c. in, between the said plaintiff and one R. C. whereby there was and there reserved to him the said plaintiff for the forbearance of the said money, above the rate and value of five pounds for the forbearance of one hundred pounds for a year, contrary to the tenor of the statute in such case made and provided; by means thereof, and by force of the said statute, the said writing-obligatory now brought here into court as aforesaid, was and is utterly void; and this, &c.; wherefore, &c. if, &c. [There was another plea, stating the contract to have been made between plaintiff and one A. A. instead of R. C.; and a further plea, alledging the contract to have been made by the plaintiff with the defendant.]

Plea (to debt on bond), that the same was given on an usurious contract.

— *precludi non*; because he says, that the said writing-obligatory in the said declaration mentioned, was made and delivered by the said defendant to the said plaintiff upon a good consideration and for a just and true debt, owing by the said defendant to the said plaintiff, to wit, at, &c. without this, that the said writing-obligatory was made and delivered for the securing the payment of money upon such usurious and unlawful contract as in that mentioned, in manner and form as the said defendant hath in by that plea above alledged; and this, &c.; wherefore, &c. his debt, together with his damages, &c.

Replication, that a good consideration was given, and traverses the usurious contract.

— As before saith, that the said writing-obligatory was made and delivered for securing the payment of money upon such usurious and unlawful contract, as is mentioned in the said plea of the said defendant by him secondly above pleaded in bar, in manner and form as the said defendant hath in and by his said plea above alleged; and of this he the said defendant puts himself upon the jury; and the said plaintiff doth the like.

Rejoinder, taking issue upon the traverse.

Michaelmas Term, 14. Geo. III.

MEASE } **AND** the said John, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the supposed writing-obligatory, and it is read to him in these words, to wit, "Know all men, &c." [set out the bond verbatim; he also craves oyer of the condition to the said writing-obligatory, and it is read to him in these words, to wit, "The condition, &c. [set out the condition verbatim]; which being read heard, the said John saith *actio non*; because he saith, that the supposed writing-obligatory is not his deed, in manner and form as the said Elizabeth hath above complained against him; and

Plea (to debt on bond by an executrix); it, *non est factum*.

ed Plea, that the bond was given to testator to indemnify him against a bond given jointly by the defendant and testator to one A. B. for a debt due from defendant to A. B. and in which the defendant joined as a security, and that defendant paid the money to A. B. whereby neither plaintiff nor testator have been damnified.

and of this he puts himself upon the country, &c.: And for further plea in this behalf the said John, by leave, &c. according, &c. says *actio non*; because he says, that the said supposed writing-obligatory was given by the said John to the said Matthew, in his lifetime, to wit, at, &c. to indemnify the said Matthew against a certain writing-obligatory of the said Matthew, commonly called a bond, by them the said John and Matthew duly made and sealed with their seals, and bearing date, &c.; whereby the said John and Matthew became held and firmly bound to one A. B. in the sum of, &c. to be paid to the said A. B. when they should be thereto afterwards requested, with a condition thereunder written, that if the said John and Matthew, or either of them, their or either of their heirs, executors, or administrators, did well and truly pay or cause to be paid unto the said A. B. his executors or assigns, the full sum of pounds, with lawful interest for the same, of good and lawful money of Great Britain, on, &c. next after the date thereof, without fraud or further delay, then that obligation to be void, or else to remain in full force: And the said John further saith, that the said writing-obligatory last-mentioned was given to secure to the payment of the debt before then justly due and owing from the said John to the said A. B. with lawful interest for the same, on the day in the condition of that writing-obligatory mentioned, and that the said Matthew only joined in the said bond as a security to the said for the payment of the said debt so due and owing from the said John to the said : And the said John further saith, that he the said John did, after the making of the said last-mentioned writing-obligatory, to wit, on the day in the said writing-obligatory mentioned, justly pay to the said the said sum of with lawful interest for the same, according to the tenor of the condition aforesaid, whereby the said last-mentioned obligation became void, to wit, at, &c.: And the said John further saith, that the said Matthew, in his lifetime, was not, nor hath the said Elizabeth since his death, been in anywise damnified by means of the said writing-obligatory, or of his the said Matthew's joining in or executing thereof; and this, &c.; wherefore, &c. if, &c.

J. MORGAN.

Plea (to declaration in debt on bond, by administrator *de bonis non* against administrator of obligor), that two judgments recovered against defendant on two bonds of intestates, and *plene administravit* 70l. which is insufficient to pay the judgments.

AND the said Robert earl Ferrers, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and says *actio non*; because he says that the said Washington earl Ferrers, in his lifetime, to wit, on, &c. by his certain writing-obligatory, sealed with his seal, and by him then and there duly delivered, acknowledged himself to be held and firmly bound to J. B. in the sum of four hundred and twenty-four pounds of lawful, &c. to be paid to the said J. B. when he the said W. earl F. should be thereto afterwards requested, which said last-mentioned writing-obligatory, at the time of the death of the said W. earl F. remained in

full

full force and effect, and in nowise annulled, discharged, paid off, or satisfied; and the said W. earl F. also, in his lifetime, afterwards, to wit, on, &c. at, &c. by his certain writing-obligatory, sealed with his seal, and by him then and there duly delivered, acknowledged himself be held and firmly bound to the said J. B. in the further sum of four hundred pounds of good and lawful money of Great Britain, to be paid to the said J. B. when he the said W. earl F. should be thereto afterwards requested, which said last-mentioned writing-obligatory, at the time of the death of the said W. earl F. remained in full force and effect, and in nowise annulled, discharged, paid off, or satisfied, and the said two last-mentioned writings-obligatory remaining in full force, the said J. B. for the recovery of the said several debts after the death of the said W. earl of F. and after the granting of the said administration, to wit, in Michaelmas term, in the twenty-first year of the reign of our lord the now king, in his said majesty's court, before he king himself, impleaded the said Robert earl Ferrers, as the administrator, with the will annexed, of all the goods and chattels, rights and credits, which were of the said W. earl F. at the time of his death, in a certain plea of debt for the said sums of four hundred pounds and four hundred and twenty-four pounds, making together the sum of eight hundred and twenty-four pounds upon the said two several last-mentioned writings-obligatory, and such proceedings were thereupon had in the same court that the said J. B. afterwards, to wit, in the same Michaelmas term, in the twenty-first year aforesaid, by the judgment of the same court recovered against the said R. earl F. as administrator with the will annexed as aforesaid, as well the said several debts of four hundred pounds and four hundred and twenty-four pounds, amounting together to the sum of eight hundred and twenty-four pounds, and also the further sum of sixty-three shillings for the damages which he had sustained, as well by occasion of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, to the said J. B. by the court there adjudged to be levied of the goods and chattels which were of the said W. earl F. at the time of his death, and which were in the hands of the said W. earl F. to be administered, if he had so much in his hands to be administered; and if he had not, then the same damages to be levied of the proper goods and chattels of the said R. earl F. whereof the said defendant was convicted, as by the record and proceedings thereof remaining in his said majesty's court, before the king himself at Westminster, more fully appears; which said judgment still remains in full force and unsatisfied: And the said Robert, earl F. saith, that he hath fully administered all the goods and chattels which were of the said W. earl F. at the time of his death, which hath come to his hands to be administered, and that he hath not, nor on the day of exhibiting the bill of the said plaintiff, or ever afterwards, had any goods and chattels belonging to the said W. earl F. at the time of his death to be administered, except goods and chattels to the amount of seventy pounds, which are not sufficient

REPLICATION (DEBT ON JUDGMENT) PLEA.

sufficient to satisfy the said judgment in form aforesaid given, which are bound and charged to the satisfaction thereof; and this, &c.; wherefore, &c.

Replication, that defendant had sufficient to pay plaintiffs debt and the judgments.

And the said plaintiff says (*precludi non*); because he says, that the said R. earl F. at the time of exhibiting the bill of the said plaintiff, had goods and chattels which were of the said W. earl F. at the time of his death, and which have come to the hands of the said R. earl F. to be administered, sufficient to satisfy the said plaintiff his said debt and damages, besides what are sufficient to satisfy the said judgment in form aforesaid given against the said R. earl F.; and this he prays may be enquired of by the country, &c.

Drawn by MR. CROMPTON.

Easter Term, 23. Geo. III.

Plea to debt on a judgment on a recognizance; 1st, *nil tibi record*; 2d, that no writ of *capias satisfaciendum* was sued out upon the judgment.

FELTHAM,
at suit of, &c.

MARTIN, AND OTHERS.

—— ACTION NON; because he saith, that there is no such record of the judgment in the said declaration mentioned remaining in the said court of our said lord the king, before the king himself here, as the said James Martin, Richard, and John have above in that behalf alledged; and this, &c.; whereof, &c. if, &c.: And for a further plea on this behalf, &c. *actio non*; because he saith that there is no such record of the recognizance in the said declaration mentioned remaining in the said court of our said lord the king, before the king himself, as the said James, Richard, and John, have above in that behalf alledged; and this, &c. wherefore, &c. if, &c.: And for a further plea, &c. *actio non*; because he saith, that after the recovery of the judgment aforesaid, and before the exhibiting of the bill of the said James Martin, Richard, and John, against him the said William, there was not any writ of *capias ad satisfaciendum* sued out of the court of our said lord the king, before the king himself here, by the said James Martin, Richard, and John, against the said Sir Francis Vincent upon the said judgment, and duly returned and filed of record of the said court as there ought to have been by law, and according to the ancient and immemorial usage and custom of the said court, before the exhibiting of any bill by them the said James Martin, Richard, and John, against him the said William, in any action of debt upon the said recognizance; and this, &c.; wherefore, &c. if, &c.: And for a further plea, &c. *actio non*; because he saith, that after the aforesaid recovery, and before the suing out of any writ of *capias ad satisfaciendum* therefore by the said James Martin, Richard, and John, against the said Sir Francis Vincent, to wit, on the eleventh day of January, in the year last aforesaid, he the said Sir Francis Vincent did, to wit, at Westminster aforesaid; and this, &c.; wherefore, &c. if, &c.: And for a further plea, &c. *actio non*; because he saith, that he the said William heretofore, to wit, on the first day of February, in the year of Our Lord 1783, to wit, at Westminster aforesaid, became

and

and was a bankrupt within the true intent and meaning of the several statutes made and then in force concerning bankrupts; and at the cause of action aforesaid did accrue to the said James Martin, Richard, and John, before such time as he the said William so came a bankrupt, to wit, at Westminster aforesaid; and of this the said William puts himself upon the country, &c.

C. RUNNINGTON.

And the said James Martin, Richard, and John, as to the said Replication. a of the said William by him first above pleaded in bar, say, that they, by reason of any thing therein alledged, ought not to be barred from having and maintaining their aforesaid action against the said William; because they say, that there is such a record of the judgment in the said declaration mentioned remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in the said county of Middlesex, as they the said James Martin, Richard, and John, have above in that behalf alledged; and this they are ready to verify by the said record, when, where, and in what manner the said court here shall order, &c. : And as to the said plea of the said William by him secondly above pleaded in bar, they the said James Martin, Richard, and John, say, that they, by reason of any thing therein alledged, ought not to be barred from having and maintaining their aforesaid action against him the said William; because they say, that there is such record of the recognizance in the said declaration mentioned, remaining in the said court of our said lord the king, before the king himself here, to wit, at Westminster aforesaid, in the said county of Middlesex, as they the said James Martin, Richard, and John, have above in that behalf alledged; and this they are ready to verify by the said record, when, where, and in what manner the court here shall order, &c. : And as to the said plea of the said William by him thirdly above pleaded in bar, they the said James Martin, Richard, and John, say, that they by reason of any thing therein alledged, they ought not to be barred from having and maintaining their action against him the said William; because they say, that the several promises and undertakings mentioned in the said declaration whereon the judgment was recovered, wherein the said declaration alledged to have been made and to be made in the county of Middlesex, and that after the recovery of the judgment aforesaid, and before the exhibiting of the bill of the said James Martin, Richard, and John, against the said William, to wit, on the 10th day of November, in the twenty-third year of the reign of our said lord the now king, they the said James Martin, Richard, and John sued and prosecuted out of the said court of our said lord the king, before the king himself (the said court then and still being held at Westminster aforesaid, in the said county of Middlesex), a certain writ of our said lord the king called a *capias ad faciendum* of and upon the said judgment, directed to the then sheriff of Middlesex, by which said writ our said lord the king com-

commanded the said sheriff that he should take the said Sir Francis Vincent, against whom such judgment was recovered as aforesaid, if he should be found in his bailiwick, and him safely keep, so that he had his body before our said lord the king in fifteen days of St. Martin, wheresoever our said lord the king should then be in England, to satisfy the said Martin, Richard, and John, the surviving partners in trade with the said Ebenezer Blackwell, esquire, deceased as aforesaid, two hundred and seventy-eight pounds for their damages aforesaid, in form aforesaid recovered, and that the said sheriff should have there that writ, which said writ afterwards, and before the return thereof, to wit, on the eighteenth day of November, in the said year of Our Lord 1782, at Westminster aforesaid, was delivered to Robert Taylor, esquire, and Benjamin Cob, esquire, who then and from thenceforth until and at and after the return of the said writ, were sheriff of the said county of Middlesex, to be executed in due form of law, at which day, that is to say, in the said fifteen days of St. Martin, in the said writ mentioned, before our said lord the king at Westminster, came the said James Martin, Richard, and John, in their own proper persons, and the aforesaid sheriff of Middlesex, to wit, the said Robert Taylor, esquire, and Benjamin Cob, esquire, then and there returned on the said writ to our said lord the king, that the said Sir Francis Vincent in the said writ named, was not found in his bailiwick, as by the said writ and the return thereof, which were afterwards and before the exhibiting of the bill of the said James Martin, Richard, and John, against the said William, duly filed in the said court of our said lord the king, before the king himself, at Westminster aforesaid, and now there remaining, more fully appears; and this they the said James Martin, John, and Richard, are ready to verify; whereof they pray judgment and their debt aforesaid, together with their damages by them sustained on occasion of the detention thereof to be adjudged to them, &c.: And as to the said plea of the said William by him fourthly above pleaded in bar, they the said James Martin, Richard, and John, say, that they, by reason of any thing therein alledged, ought not to be barred from having and maintaining their aforesaid action against him the said William; because they say, that the several promises and undertakings mentioned in the said declaration, whereon the judgment aforesaid was recovered, wherein the said declaration alledged to have been, and to be made in the county of Middlesex, and that after the recovery of the judgment aforesaid, and before the exhibiting of the bill of them the said James Martin, Richard, and John, against the said William, to wit, on the sixth day of November, in the twenty-third year of, &c. that the said James Martin, Richard, and John, sued and prosecuted out of the said court of our said lord the king, before the king himself (the said court then and still being held at Westminster, in the county of Middlesex) a certain writ of our said lord the king called a *capias ad satisfaciendum* of and upon the said judgment, directed to the then sheriff of Middlesex, by which said writ

our said lord the king commanded the said sheriff that he should take the said Sir Francis Vincent, against whom such judgment was so recovered as aforesaid, if he should be found in Miliwick, and him safely keep, so that he had his body before our said lord the king in fifteen days of Saint Martin, wheresoever our said lord should then be in England, to satisfy the said James Martin, Richard, and John (surviving partners in trade, of the said Ezer Blackwell, deceased as aforesaid) the said twenty-seven pounds eight shillings for their damages aforesaid, in form aforesaid, that the said sheriff should have there that writ, which said writ was made, and before the return thereof, to wit, on the said sixth day of November 1782 aforesaid, at Westminster aforesaid, was delivered to Robert Taylor, esquire, and Benjamin Cob, esquire, who then, and from thenceforth, until, and at and after the return of the said writ, was sheriff of the said county of Middlesex, to be executed in due form of law; at which day, to wit, on the said sixth day of November, in the said fifteen days of St. Martin, in the said county of Middlesex, mentioned, before our lord the king at Westminster, came the said James Martin, Richard, and John, in their own proper persons, and the aforesaid sheriffs of Middlesex, to wit, the said Robert Taylor, esquire, and Benjamin Cob, esquire, then and there returned on the said writ to our said lord the king, that the said Sir Francis Vincent in the said writ named was not found in Miliwick, as by the said writ, and the return thereof duly filed in the said court of our said lord the king, before the king himself, at Westminster aforesaid, and now there remaining, more fully appears: And the said James Martin, Richard, and John, in fact do say, that the said Sir Francis Vincent at the time of suing and returning, and filing of the said writ *ad satisfaciendum* against Sir Francis Vincent in manner aforesaid, was and still is living and in full life, to wit, at Westminster aforesaid; and this they said James Martin, Richard, and John are ready to verify, and so of they pray judgment and their debt aforesaid, together with their damages by them sustained on occasion of the detention of the said writ, to be adjudged to them, &c.

V. LAWES.

And the said William, as to the said plea of the said James Martin, Richard, and John, by them above pleaded by way of defence to the said plea by the said William by them thirdly above pleaded in bar, says, that they the said James Martin, Richard, and John, by reason of any thing in their said plea so pleaded by way of reply above alledged, ought not to have or maintain their said action against him the said William; because he saith, there is no such record of the said writ of *capias ad satisfaciendum* returned and filed of record in the said court of our said lord the king, before the king himself at Westminster aforesaid, by the said James Martin, Richard, and John, have above in their said plea so pleaded by way of reply in that behalf alledged; and of this he the said William puts himself upon the country:

L. VII.

H h

And

Rejoinder.

And as to the said plea of the said James Martin, Richard, and John, by them above pleaded by way of reply to the said plea of the said William by him fourthly above pleaded, the said William says, that they the said James Martin, Richard, and John, by reason of any thing in their last-mentioned plea so pleaded by way of reply alledged, ought not to have or maintain their aforesaid action against him the said William; because he saith, that by the course and practice of the court of our said lord the now king, before the king himself, all judicial writs issuing out of the said court in any term are tested as of the first day of that term, and that accordingly the said writ of *capias ad satisfaciendum* in the said last-mentioned plea so pleaded by way of reply alledged to have been sued and prosecuted out of the said court of our said lord the king, before the king himself, although the same was tested and *primâ facie* appears to have been sued and prosecuted out of the same court on the sixth day of November, being the first day of Michaelmas term in the twenty-third year aforesaid, was really and *bona fide* sued and prosecuted out of the same court, on the twenty-fourth day of November, in the twenty-third year aforesaid, and not before, and that at the time when the said writ of *capias ad satisfaciendum* was so sued and prosecuted out of the said court of our said lord the king, before the king himself in manner aforesaid, the said Sir Francis Vincent was dead, to wit, at Westminster aforesaid; and of this he the said William puts himself upon the country, &c.

C. RUNNINGTON.

Demurrer, with
causes.

And the said James Martin, Richard, and John, as to the said plea of the said William by him above pleaded by way of rejoinder to the said plea of the said James Martin, Richard, and John, by them above pleaded, by way of reply to the said plea of the said William by him thirdly above pleaded in bar, say, that the said plea of the said William so by him pleaded by way of rejoinder, and the matters therein contained in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar them the said James Martin, Richard, and John, from having and maintaining their aforesaid action against them, nor are they under any necessity, or in any wise bound by the law of the land to answer thereto; and this they are ready to verify; wherefore and for want of sufficient rejoinder in this behalf, they the said James Martin, Richard, and John, pray judgment and their damages by them sustained, on occasion of the detention thereof, to be adjudged, together, &c. : And for causes of demurrer in law, according to the form of the statute in such case made and provided, they the said James Martin, Richard, and James, assign and shew to the court here as follows, to wit, for that the said William hath not in or by the said rejoinder confessed, traversed, or denied the said replication of the said James Martin, Richard, and John, to which the said rejoinder is pleaded, but hath offered an issue upon a collateral and foreign point, and for that the said William hath, in and by his rejoinder, only traversed and denied the

the evidence of the fact disclosed and set forth in the replication to which such rejoinder is pleaded, and not the fact itself; and for that the said rejoinder is concluded to the country, whereas inasmuch as the point in issue can only be tried by the record of the writ mentioned in the replication to which such rejoinder is pleaded, or by the writ itself, so such rejoinder should have concluded with a verification and to the court, or the same should have merely negatived the fact set forth in the said rejoinder; and for that the said rejoinder is in various other respects uncertain, insufficient, and informal, &c.: And as to the said plea of the said William by him above pleaded, by way of rejoinder to the said plea of the said James Martin, Richard, and John, by them above pleaded, by way of reply to the said plea of the said William by him fourthly above pleaded in bar, they the said James, Richard, and John (demurrer as above with causes), for that the said William has, in and by his said rejoinder, attempted to put in issue matter that with respect to him is altogether immaterial and unusable; and for that he hath concluded the said rejoinder to the country, when he should have concluded it with a verification and to the court; and for that the said rejoinder is in various other respects uncertain, insufficient, and informal.

S. SHEPHERD.

Trinity Term, 25. Geo. III.

HORNSBY } AND the said J. H. by A. B. his attorney, Plea of *nil tibi*
et the suit of } comes and defends the wrong and injury, when, *record.*
 BREADFOOT. } &c. says, *actio non*; because he says, that there
 is no such record of the judgment aforesaid remaining in the said
 court of our said lord the king, before the king himself, as the said
 J. B. hath above in that behalf alledged; and this, &c.; wherefore,
 &c. if, &c.

And the said J. B. saith, that he, by reason of any thing by the said J. H. in his said plea above alledged, ought not to be barred from having his aforesaid action thereof maintained; because he saith, that there is such a record of the judgment aforesaid remaining in the said court of our said lord the king, before the king himself, as the said J. B. hath above in that behalf alledged; and this he the said J. B. is ready to verify by the said record, when, where, and in such manner as the court here shall order, direct, and appoint; therefore it is commanded to the said J. B. that he have the said record before our lord the king at Westminster, on, &c. next after, &c. and that he fail not at his peril; therefore the same day is given to the said J. B. at the same place.

Replication to
 the last plea, that
 there is such a
 record of the
 judgment.

Plea, (to debt on recognizance) that before the suing out of any *capias ad satisfaciendum* principal died.

Hilary Term, 26. Geo. III.

CHALMERS
at the suit of

JAMES AND ANOTHER.

AND the said Richard A. B. his attorney, comes and defends the wrong and

when, &c. and says, that the said Joseph and Thomas, as because he saith, after the aforesaid recovery, and before the out any writ of *capias ad satisfaciendum* thereupon by the said mas and Joseph against the said W. G. to wit, on, &c. t W. G. died, to wit, at, &c.; and this he the said Richard i to verify; wherefore he prays judgment if the said Joseph Thomas ought to have their aforesaid action thereof mai against him, &c.

Replication, that principal did not die before the suing out of *capias ad satisfaciendum*.

And the said Joseph and Thomas, as to the said plea of Richard by him above pleaded in bar, say, that by reason thing by the said Richard in that plea above alledged, they not to be barred from having their aforesaid action thereof tained against him; because they say, that after the aforesai very, and before the suing out of any writ of *capias ad satisfaciendum* thereupon by the said Joseph and Thomas against t W. G. he the said W. G. did not die in manner and form said Richard hath above in pleading alledged; and this the s seph and Thomas pray may be enquired of by the country.

The plaintiff added a similiter for the defendant, and awarded a venire, which the defendant struck out on returning the paper book, and put in the demurrer:

Demurrer to the last replication, with causes.

And the said Richard saith, that the said plea of the said and Thomas by them above pleaded by way of reply, and tters therein contained in manner and form as the same an set forth and pleaded, are not sufficient in law for the said and Thomas to have their aforesaid action thereof mai against him; to which said plea so pleaded by way of rep the matters therein contained in manner and form as the above pleaded and set forth, he the said Richard is not un necessity, nor in anywise bound by the law of the land to : and this, &c.; wherefore for want of a sufficient replica this behalf he prays judgment, and that the said Joseph an mas may be barred from having their aforesaid action maintained against him; and for causes of demurrer in l according to the form of the statute in such case made and pr he the said Richard sets down and shews to the court h causes following, that is to say, for that the said Joseph an mas have not, in or by their replication aforesaid set for doth it appear thereby that they sued out any writ of *capias ad satisfaciendum* upon the said judgment against the said W. G. any such writ of *capias ad satisfaciendum* was duly returned the exhibiting of the bill of the said Joseph and Thomas aga said Richard, or that the said W. G. was alive at the time

thereof; and also for that the said replication is in other uncertain, insufficient, and informal, &c.

Hilary Term, 13. Geo. III.

JOSEPH AND ANOTHER } AND the said S. M. and T. E.
 at the suit of } by A. B. their attorney, come
 LAM AND ANOTHER. } and defend -he wrong and injury,
 &c. and say, that the said plaintiffs *actio non*; because
 y, that there is not any such record of the recognizance in
 clation aforesaid mentioned now remaining in the said
 of our said lord the king, before the king himself at West-
 r aforesaid, as the said plaintiffs have above in their declara-
 orefaid in that behalf alledged; and this they the said defen-
 re ready to verify, wherefore they pray judgment, and that
 l plaintiffs may be barred from having their aforesaid action
 maintained against them the said defendants, &c.: And
 ther plea in this behalf, the said defendants, by leave of, &c.
 ng, &c. say, *actio non*; because they say, that the said J. M.
 declaration aforesaid mentioned, after the recovery of the
 id judgment in the declaration aforesaid mentioned against
 l J. M. and before the said affirmance of the said judgment,
 er the fourteenth day of, &c. and before the day of exhibit-
 bill of the said plaintiffs against them the said defendants in
 half, to wit, on, &c. he the said J. M. became a bankrupt
 the true intent and meaning of the several statutes made
 n and now in force concerning bankrupts, to wit, at, &c.;
 , &c.; wherefore, &c.; and that the said plaintiffs may be
 from having and maintaining their aforesaid action thereof
 the said defendants, &c.: And for further plea in this be-
 ie said defendants, by like leave of, &c. according, &c. say,
 n; because they say, that the said J. M. in the declaration
 id mentioned, after the recovery of the said judgment in the
 laration mentioned, and before the said affirmance of the
 lgment, and after the fourteenth day of, &c. mentioned in
 n act made at Westminster, in the county of Middlesex, in
 a year of the reign of, &c. intituled, "An Act to prevent
 nmitting of Frauds by Bankrupts," and before the day of
 ing the bill of the said plaintiffs against them the said defend-
 this behalf, to wit, on, &c. he the said J. M. became a
 pt within the true intent, &c.; and that the said J. M. so
 ng a bankrupt as aforesaid, did afterwards and before the
 ace of the said judgment, and before the day of exhibiting,
 ainst them the said defendants in this behalf, to wit, on, &c.
 tain his certificate, and the same was afterwards and before
 rmance of the judgment aforesaid, and before the day of ex-
 , &c. against them the said defendants in this behalf, to
 , &c. duly allowed and confirmed, as in and by the said act

Plea to an ac-
 tion of debt on
 recognizance of
 error: 1st. *mis-
 trial record* as to
 the recogni-
 zance; 2d, bank-
 ruptcy of prin-
 cipal after the
 judgment and
 before the affir-
 mance; 3d,
 bankruptcy
 and certificate
 obtained and al-
 lowed before af-
 firmance.

of parliament above particularly mentioned is in such cases directed, according to the tenor, true intent and meaning of the said act of parliament, to wit, at, &c.; and this, &c.; wherefore, &c. and that the said plaintiffs may be barred from having and maintaining their said action against them the said defendants, &c. (Add a plea same as the two last, only instead of *before* the affirmance, say *after*.)

J. MORGAN,

Plea, that plaintiff sued out an *elegit* on the judgment which was executed, and plaintiff had delivered to him all defendant's goods, and half his lands.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and says, *actio non*; because he saith, that after the rendition of the judgment aforesaid, and before the day of exhibiting the bill of the said Thomas in this behalf, to wit, in Easter term, in the twenty-ninth year of the reign of our lord the now king, came into the court of our lord the king, before the king himself, (the said court then and still being held at Westminster, in the said county of Middlesex, and according to the form of the statute in such case made and provided, chose to be delivered to him all the goods and chattels which were of the said William, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of which the said William, at the time of rendering such judgment, or at time afterwards, was seised to have and to hold the said goods and chattels as his own proper goods and chattels, and also to hold the said moiety of the lands and tenements aforesaid as his freehold, to him and his assigns by a reasonable price and extent, until the said Thomas should have levied the debt and damages aforesaid, recovered according to the form of the aforesaid statute; whereupon by a certain writ of our lord the king of *elegit*, it was then and there commanded to the sheriff of Middlesex that he should cause to be delivered to the said Thomas all the goods and chattels which were of the said Thomas in his bailiwick (except the oxen and beasts of the plough), and also a moiety of all the lands and tenements in his bailiwick, of which the said William, at the time of the rendition of the said judgment, or at any time afterwards, was seised by a reasonable price and extent, to have and to hold the said goods and chattels as his own proper goods and chattels, and also to hold a moiety of the said lands and tenements, as his freehold, to him and his assigns, until the said Thomas should have levied his debt and damages, and in what manner the said sheriff should execute that writ, he the said sheriff should make appear to our said lord the king at Westminster, on Friday next after the morrow of the Holy Trinity, under his seal and the seals of those by whom he should make such extent and appraisement, and that the said sheriffs should have there the names of those by whose oaths he should make the said extent and appraisement, and that writ, which said writ the said Thomas afterwards, and before the return thereof, to wit, on, &c. at, &c. delivered to W. C. Esquire,

esquire, and Sir B. H. knight, then sheriff of the county of Middlesex, to be executed in due form of law ; by virtue of which said writ of *elegit* afterwards, by a certain inquisition taken at Westminster aforesaid, in the said county of Middlesex, on, &c. in the twenty-ninth year aforesaid, before the said W. C. and Sir B. H. being such sheriff as aforesaid, by the oaths of twelve good and lawful men of his bailiwick, it was found that the said William, on the day of taking the said inquisition, was possessed of divers goods and chattels mentioned in the said inquisition of the value of twenty-pounds of lawful money of Great Britain, and that the said William, on the day of the taking of the said inquisition, was seised in his demesne as of fee of and in six messuages, and divers, to wit, two hundred and thirty acres of land, likewise mentioned in the said inquisition ; and thereupon the sheriff delivered the said goods and chattels in the said inquisition mentioned, and likewise moiety of the said lands and tenements in the said inquisition also mentioned, on the said day of taking the said inquisition also mentioned to the said Thomas, by a reasonable price and extent, to have and to hold the said goods and chattels to the said Thomas and his own proper goods and chattels, and also to hold the moiety of the said lands and tenements, as his freehold, to him and his assigns, until the said Thomas should have fully levied the debt and damages aforesaid, according to the exigency of the said writ, as by the said writ of *elegit*, and the inquisition taken thereupon as aforesaid remaining in the said court of our said lord the king, before the king himself at Westminster aforesaid, more fully appears ; and this, &c. ; wherefore, &c.

S. LAWRENCE.

And the said Thomas saith, that by reason of, &c. *precludi non* ; Replication, *non* because he says, that there is not any record of the said writ of *elegit* or the inquisition thereon taken, remaining in the said court of our said lord the king, before the king himself, as the said William hath in his said plea above alledged ; and this, &c. ; wherefore, &c.

Drawn by MR. GRAHAM.

AND the said John, by A. B. his attorney, comes and defends *Plea thereto*, *is wrong* and injury, when, &c. and says, *actio non* ; because protesting insufficiency. says, that true it is that plaintiff recovered the judgment against the intestate and one J. M. ; and *that the intestate died, and J. M. survived him, and is now alive.* (2d plea special. *plene administravit viz.* that he paid five pounds for the burial, four pounds for the letters of administration, and twenty-seven pounds rent in arrear, and that he hath no goods in his hands besides goods to the value the money paid.

with the said J. M. the said sum of three hundred and sixty pounds debt, and sixty-three shillings for their damages by them sustained as well by reason of the detention as for their costs and charges by them about their suit in that behalf expended, in manner and form as the said plaintiffs have in their said declaration alledged; but the said John further says, that after the rendition of the judgment aforesaid, in form aforesaid, and before the commencement of this suit, to wit, on, &c. at, &c. the said Richard died, and the said J. M. then and there survived him, and is now in full life, to wit, at Westminster aforesaid, in the said county; and this, &c.; wherefore, &c.: And for further plea in this behalf, by leave of, &c. *actio non*; because he says, that he the said John, after the death of the said Richard, and before the commencement of this suit, to wit, on, &c. administered out of the goods and chattels which were of the said Richard at the time of his death, the sum of five pounds of, &c. as and for the reasonable charge of the funeral of the said Richard: And the said John further says, that afterwards, and after the death of the said Richard, who died intestate as aforesaid, and before the commencement of this suit, to wit, on, &c. at, &c. administration of all and singular the goods and chattels, rights and credits which were of the said Richard, deceased, at the time of his death, who died intestate, was granted to the said John, by John, by Divine Providence, archbishop of Canterbury, primate of all England, and metropolitan, to whom the granting of administration in that behalf of right belonged; and that the said John afterwards, and before the commencement of this suit, to wit, on, &c. expended and administered out of the goods and chattels which were of the said Richard at the time of his death, the sum of four pounds of, &c. as and for the reasonable costs and expenses of obtaining the said administration: And the said John further says, that before the commencement of this suit, to wit, on, &c. at, &c. one T. P. was seised in his demesne as of fee of and in a certain messuage or dwelling-house, with the appurtenances, situate, lying, and being in High Holborn, in the parish of, &c. in the said county of Middlesex, and being so seised thereof, he the said T. P. afterwards, to wit, on, &c. at, &c. demised the said messuage or dwelling-house, with the appurtenances, to the said Richard, deceased, in his lifetime, to have and to hold the same from thence next ensuing, for and during, and unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, and so on from year to year for so long a time as the said Thomas and Richard deceased in his lifetime should please, yielding and paying therefore yearly and every year for so long a time as the said Richard should hold and enjoy the aforesaid premises, with the appurtenances, unto the said Thomas, the yearly rent or sum of fifty-five pounds of, &c. payable quarterly, that is to say, on, &c. in each and every year, by even and equal portions, by virtue whereof he the said Richard entered into the said demised premises, with the appurtenances, and became and was possessed thereof until and at the time of his death; and that at the time of the death of the said Richard,

1, there was due and owing from the said Richard to the said s the sum of twenty-seven pounds ten shillings of, &c. for of a year's rent ending at and upon the twenty-ninth day now last past, and that the said John. after the death of Richard, and before the commencement of this suit, to , &c. at, &c. out of the goods and chattels which were of Richard at the time of his death, and which said goods ttels continually from the death of the said Richard had been re then and there in and upon the said demised premises, and , be seized and distrained by the said Thomas for the afore- t so due and in arrear as aforesaid, paid and administered to l'. P. as aforesaid the sum of twenty seven pounds ten shil- eing the amount of the aforesaid rent: And the said John saith, that he, from the time of the death of the said Richard, , hath not had, nor hath he now any goods and chat- ich were of the said Richard at the time of his death in ds to be administered, besides goods and chattels to the va- he several sums of money by him paid and administered as d ; and this, &c. ; wherefore, &c.

Drawn by MR. GRAHAM.

AN } AND the said J. by A. B. his attorney, comes Plea, that after
inst } and defends the wrong and injury, when, &c. and judgment, and
RN. } says *actio non* ; becaule he says, that after the reco- before ca. fa. M.
the judgment aforesaid, and before any writ of *capias ad* sued, the princi-
iendum of and upon the said judgment, at the suit of the said- pal died.
Against the said A. R. was sued forth out of the court here,
urned and affiled of record, to wit, on, &c. the said A. R.
o wit, at, &c. ; and this, &c. ; wherefore, &c.

the said plaintiff says, that he by any thing by the said de- Replication.
t in pleading alledged, *precludi non* ; because he says, that
re recovery of the said judgment against the said A. R. at
of the said plaintiff against the said defendant, to wit, on, &c.
thirteenth year of the reign of our said lord the now king,
said plaintiff sued and prosecuted out of the court of our
e now king, before the king himself, the said court then and
ing at Westminster aforesaid, of and upon the said judg-
his majesty's writ of *capias ad satisfaciendum* directed to the
of London, by which said writ our said lord the king com-
d the said sheriff that they should take the said A. R. if she
be found in their bailiwick, and safely keep her, so that they
have her body before the said lord the king at Westminster,
esday next from one month from the day of Easter, to sa-
ie said plaintiff his damages aforesaid in form aforesaid re-
d, and that they should have there then that writ, at which
Watkin Lewes, knight, and R. Oliver, esquire, then she-
f London aforesaid, returned here upon the said writ, that
the

the said A. R. was not found in their bailiwick, as by the said writ and the return thereof duly affiled in this court here, on the files of the writs of *capias ad satisfaciendum* of term of Easter, in the year aforesaid, may more fully and at large appear: And the said plaintiff further says, that the said A. R. did not die before the return of the said writ of *capias ad satisfaciendum* (a); and this, &c.; wherefore, &c.

(a) The conclusion of this plea is proper, and the determination of this demurrer has been over-ruled. Vide *Chandler v. Roberts*, Doug. 60. and *Henderson v. Withy*, 2. Term. Rep. B. R. 570.

Crises of demurrer to the first replication.

For that the replication aforesaid concludes with an averment, whereas the same ought to have concluded to the country, and for that the replication aforesaid is in other respects uncertain, insufficient, and wants form, &c.

Judgment for defendant.

J. MORGAN.

Plea to declaration in debt against bail on their recognizance), before any *capias ad satisfaciendum* issued, principal died.

AND the said John and Robert, by Alexander How their attorney, say, that the said Alexander Bean ought not to have or maintain his said action against them, to recover his damages aforesaid, by pretence of his said recognizance; because they say, that the said Samuel Schultz in the said judgment mentioned, before the return of any writ of *capias ad satisfaciendum* thereon against him, died, to wit, at Westminster aforesaid, in the county aforesaid; and this, &c.; whereof, &c. if, &c.

J. ADAIR.

Plea of set-off to an action upon an indenture for work, &c.

AND the said defendant, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and saith, that said plaintiff *actio non*; because he saith, that at the time of exhibiting, &c. there was due and owing to said plaintiff, upon and by virtue of indenture, the sum of pounds and no more, to wit, at, &c. aforesaid: And said defendant further saith, that before the time of exhibiting, &c. to wit, on, &c. from thence until and at the time of exhibiting, &c. to wit, at, &c. aforesaid, said plaintiff was and still is indebted to said defendant in pounds of lawful, &c. for work and labour, &c. and which money so due and owing from said plaintiff to said defendant exceeds the aforesaid money due upon and by virtue of said indenture in said declaration mentioned, and out of which said sum said defendant is ready and willing, and hereby offers to set-off and allow to said plaintiff all the money due to said plaintiff, upon and by virtue of said indenture in said declaration mentioned, according to the form of the statute, &c.; and this, &c.; wherefore, &c. if, &c.

And

AND the said defendant, by A. B. his attorney, comes and de- Plea of payment
the wrong and injury, when, &c. and prays oyer of the said to an annuity
writing-obligatory in the said declaration first-mentioned, and it is condition.
o him, &c.; he also prays oyer of the condition of the said
writing-obligatory, and it is read to him in these words, "The
condition, &c." (for the payment of an annuity), which being
and heard, the said defendant says *actio non*; because he
that the said defendant had paid to the said plaintiff an annu-
pounds, free and clear of and from all deductions
payments, on the day of , and on the day of
every year since the making of the said writing-obligatory, ac-
cording to the tenor of the condition of the said writing-obligatory,
&c.; at, &c. aforesaid; and this, &c.; wherefore, &c. if the
plaintiff ought to have his aforesaid action maintained against
as to the said, &c. parcel of the said, &c. by the said plaintiff
demanded; and the said defendant also prays oyer of the said
writing-obligatory in the said declaration last mentioned, and it is
o him, &c.; he also prays oyer of the condition of the said
writing-obligatory, and it is read to him in these words, to wit,
the condition, &c." (for payment of an annuity), which being
and heard, he said defendant says *actio non*; because he
that, &c. [same as in the other plea], *mutatis mutandis*;
&c.; wherefore, &c. if the said plaintiff ought to have,
as to the said pounds, residue of the said pounds above
demanded, &c.

AND the said plaintiff, as to the said plea of the said defendant by Replication
first above pleaded in bar as to the said pounds, parcel of the thereto.
pounds above demanded, says *precludi non*, as to the
pounds, parcel, &c.; because protesting that the said de-
fendant hath not paid to the said plaintiff the said annuity of
pounds in the condition of the said declaration mentioned and first-
mentioned writing-obligatory mentioned, free and clear from de-
duction and abatement, on, &c. in every year since the making of
the said writing-obligatory, according to the tenor and effect of
the said condition of the said writing-obligatory, as the said de-
fendant hath above in pleading alledged in that behalf; for repli-
cation in this behalf the said plaintiff saith, that on, &c. to wit,
&c. aforesaid pounds of lawful money of Great Britain for
then elapsed and ended on the day and year aforesaid, became
due and owing from the said defendant to the said plaintiff on the
writing-obligatory in the said declaration first-mentioned by
the condition thereof, and which still remains and is due, owing,
ready, and unpaid to the said plaintiff, contrary to the tenor,
intent, and meaning of the said writing-obligatory in the said
declaration first-mentioned by the condition thereof; and this, &c.;
wherefore, &c. he prays judgment and the said pounds, par-
&c. with his damages on occasion of the detaining thereof, to
be judged to him, &c.: And the said plaintiff, as to the said plea
of the said defendant by him lastly above pleaded in bar as to the
said

saïd pounds, residue of the saïd pounds above demanded, says *precludi non*; for replication, &c. [as before]; and this, &c.; wherefore he prays judgment and the saïd pounds, residue of, &c. together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him, &c.

Plea, non est factum, and issue thereon; that the bond was given in consideration of an agreement by plaintiff and another, to repay another sum on chances relating to drawing a lottery ticket.

AND the saïd Thomas, in his proper person, comes and defends the wrong and injury, when, &c. and craves oyer of the saïd writing-obligatory, and it is read to him, &c.; he also craves oyer of the condition of the saïd writing-obligatory, and it is read to him in these words, to wit, "The condition of this obligation is such, that the above bounden Thomas Burrow, his heirs, executors, or administrators, or either of them, do and shall well and truly pay, or cause to be paid unto the above named William George Brest, his executors, administrators, or assigns, the full sum of one hundred and fourteen pounds of good and lawful money of Great Britain, together with lawful interest for the same, on the twenty-seventh day of June next 1782, then this obligation to be void, or else to remain in full force;" which being read and heard, the saïd T. saith, that the saïd William George ought not to have his aforesaid action thereof maintained against him; because he says, that the saïd writing-obligatory is not his deed; and of this he puts himself upon the country, &c.; and the saïd William George doth the like: And for further plea in this behalf he the saïd Thomas, by leave of the court here for that purpose first had and obtained, according to the form of the statute in that case made and provided, saith, that he ought not to be charged with the saïd debt by virtue of the saïd writing-obligatory; because he saith, that before the making of the saïd writing obligatory, to wit, on the sixth day of December, A. D. 1781 aforesaid, and on divers other days and times between that day and the twenty-seventh day of the same month of December, at London aforesaid, in the parish and ward aforesaid, it had been and was agreed by and between the saïd Thomas and the saïd William George and one William Mercer, that he the saïd Thomas should pay to them the saïd William George and William Mercer divers sums of money, in the whole amounting to a large sum of money, to wit, the sum of one hundred and fourteen pounds of lawful money of Great Britain, in consideration of the repayment of certain other sums of money which they the saïd William George and William Mercer then and there promised and agreed to pay to the saïd Thomas upon certain chances or events relating to drawing of certain tickets in a certain lottery, erected and established by a certain act made at the parliament of our sovereign lord the now king, holden at Westminster, in the county of Middlesex, in the twenty-first year of his reign, and entitled, "An Act for raising
" a certain Sum by way of Annuity and a Lottery, and for consolidating certain Annuities which were made one joint Stock,
" by an Act made in the second Year of the Reign of his present
" Majesty,

“ Majesty, with certain other Annuities consolidated by several
 “ Acts made in the twenty-fifth and twenty-sixth years of the
 “ Reign of King George the Second, and in the fifth year of the
 “ Reign of his present Majesty,” contrary to the form and effect
 of the said act : And the said Thomas in fact further saith, that
 afterwards, to wit, on the said twenty-seventh day of December,
 in the year aforesaid, at London aforesaid, in the parish and ward
 aforesaid, it was further agreed by and between the said Thomas
 and the said William George, (a) that for securing the payment
 of the said several sums of money, amounting as aforesaid, so pro-
 mised and agreed to be paid by the said Thomas to the said Wil-
 liam George, in manner and for the purpose aforesaid, he the
 said Thomas should seal and as his act and deed deliver to the said
 William George a certain writing-obligatory, in the penal
 sum of two hundred and twenty-eight pounds, conditioned for
 the payment of the said several sums of money, amount-
 ing as aforesaid : And the said Thomas in fact further saith, that
 in pursuance and performance of the said last-mentioned agree-
 ment, he the said Thomas afterwards, to wit, on the day and
 year last aforesaid, at London aforesaid, in the parish and ward
 aforesaid, sealed and as his act and deed delivered to the said Wil-
 liam George the said writing-obligatory in the said declaration
 mentioned, and now brought into court with the said condition
 hereunder written, for securing the payment of the said several
 sums of money, amounting as aforesaid, so promised and agreed to
 be paid by him the said Thomas to the said William George and
 William Mercer, in manner and for the purpose aforesaid; where-
 by and by force of the said act of parliament the said writing-
 obligatory was and is null and void; and this, &c.; wherefore,
 &c. if he ought to be charged with the said debt, by virtue of the
 said writing-obligatory.

(a) Wm. Mer-
 cer was not par-
 ty to this agree-
 ment.

And the said William George, as to the said plea of him the said Thomas secondly above pleaded in bar, says, that he by reason of
 any thing by the said Thomas above in that plea alledged, ought
 not to be barred from having and maintaining his said action there-
 of against him; because protesting that no such agreement as in
 he said plea above is alledged, was made or entered into by and
 between the said Thomas and the said William George and the
 said William Mercer, in manner and form as in that plea alledged;
 he the said William George, for replication in this behalf
 says, that the said obligation now brought here into court was
 made by the said Thomas to the said William George upon good
 and lawful consideration, and for the securing the payment of a debt
 justly and truly owing from the said Thomas to the said William
 George, without this, that the said Thomas did seal and as his act
 and deed deliver to the said William George the said writing-ob-
 ligatory in the said declaration mentioned, for securing the pay-
 ment of any sums of money promised and agreed to be paid by him
 he said Thomas to the said William George and William Mercer,
 in

Replication,
 that it was on
 good considera-
 tion, traversing
 the allegation in
 defendant's
 plea.

478 PLEA.—ILLEGAL CONSIDERATION—SMUGGLING—REPLICATION.

in manner and form as in that plea is above alledged ; and this, &c. ; wherefore he prays judgment and his debt aforesaid, &c.

V. GIBB.

Plea (to debt on bond), that plaintiff and another, his then partner, agreed to deliver defendant a quantity of smuggled tea, for which he was to accept bills of exchange to the amount of 300*l.* which he did ; but being unpaid gave the bond in question.

[AFTER setting out the bond and condition, which was for the payment of money upon oyer, the plea proceeds thus] ; which being read and heard, the said defendant says, *actio non* ; because he says, that before the making of the said writing-obligatory, to wit, on the sixth day of September, in the year of Our Lord 1784, the said plaintiff and one Edward Fry, he the said Edward then and there being joint partner with the said Thomas in trade and commerce, had agreed to sell and deliver to the said defendant a large quantity of tea within this kingdom, to wit, at Westminster aforesaid ; which said tea should be smuggled, and imported by the said plaintiff and the said Edward Fry into this kingdom without paying any duty thereon to our said lord the king, at and for the price or sum of three hundred pounds ; and that the said defendant should accept bills of exchange, to be drawn by the said Thomas upon him the said defendant, for the same : And the said defendant further saith, that afterwards, and before the making of the said writing-obligatory, to wit, on the first day of June, in the year aforesaid, at Westminster aforesaid, he the said defendant did accept bills of exchange for the said sum of three hundred pounds for and on the account aforesaid ; but the said defendant further saith, that the said sum of three hundred pounds in the said bills of exchange contained, then remaining due and unpaid to the said plaintiff ; and he the said Edward afterwards, to wit, on the said sixth day of September, in the year of Our Lord 1784, at Westminster aforesaid, it was agreed between the said plaintiff, and the said Edward and the said defendant, that for securing the payment of the said three hundred pounds so due and owing from the said defendant to the said plaintiff and the said Edward for the cause aforesaid, he the said defendant should seal and as his act and deed deliver to the said plaintiff the said writing-obligatory now brought here into court : And the said defendant further saith, that in pursuance of the said last-mentioned agreement, afterwards, to wit, on the same day and year last aforesaid, at Westminster aforesaid, he the said defendant did seal and as his act and deed deliver unto the said plaintiff the said writing-obligatory now brought here into court ; which said writing-obligatory is void in law ; and this, &c. ; wherefore, &c. ; if, &c.

W. BALDWIN.

Replication, a just debt.

And the plaintiff saith, that he by reason, &c. *precludi non* ; because protesting that the said plea and the matter therein contained are not sufficient in law to bar the said plaintiff from having or maintaining his aforesaid action against him ; for a replication in this behalf the said plaintiff saith, that the said writing-obligatory in the said declaration mentioned was made and sealed, and delivered

ered by the said defendant to the said plaintiff for a just and true
 ot, without this, that it was agreed between the said plaintiff and
 said Edward Fry, and the said defendant, that the said plaintiff
 l Edw. Fry should sell and deliver to the said defendant tea with- Traverse the
 his kingdom, which should be smuggled and imported by the smuggling.
 l plaintiff and Edward into this kingdom without paying any
 y to our said lord the king, in manner and form as the said de-
 fant hath above in that behalf alledged; and this, &c.; where-
 :s, &c. and his debt aforesaid, together with his damages by
 son of the detaining that debt, to be adjudged to him, &c.

F. CALDECOTT.

And the said defendant, as to the said plea of the said plaintiff Rejoinder, tak-
 him above in reply pleaded to the said plea of the said defend- ing issue upon
 by him above pleaded in bar, says, that it was agreed between the traverse.
 said plaintiff, and the said Edward Fry, and the said defendant,
 t the said plaintiff and Edward Fry should sell and deliver to the
 l defendant tea within this kingdom, which should be smuggled
 imported by the said plaintiff and Edward into this kingdom
 hout paying any duty to our lord the king, in manner and
 n as the said defendant hath above in that behalf alledged; and
 his he puts himself upon the country; and the said plaintiff
 h the like.

The cause was tried, and the verdict found for the plaintiff.

AND the said John Burgess, by Richard Rowlinson his attor- Plea (to debt on
 r, comes and defends the wrong and injury, when, &c. and bond), the in-
 s, that he cannot deny that the said writing-obligatory above solvent debtors'
 the declaration of the said John Newton mentioned is the deed act, setting forth
 him the said John Burgess; but the said John Burgess further at large every
 s, that the said John Newton ought not to have execution proceeding from
 inist the person of the said John Burgess; because he says, that the suing out of
 said debt in the said writing-obligatory mentioned, and for the writ till the
 ich the said action is brought against the said John Burgess, final discharge.
 s contracted by the said John Burgess before the twenty-second
 of January, in the year of Our Lord 1776, mentioned in a
 tain act of parliament made in the sixteenth year of the reign of
 lord the now king, intituled, "An Act for the Relief of In-
 solvent Debtors, and for the Relief of Bankrupts in certain
 Cases;" and that after the making of the said writing-obliga-
 r, to wit, on the twenty-ninth day of May, in the year of Our
 rd 1775, one Tobias Atkinson did sue out of the court of our
 lord the king, before the king himself, the said court then and
 l being held at Westminster, in the county of Middlesex, a cer-
 writ of our said lord the king, called a *testatum capias*, directed
 he chamberlain of our said lord the king of his county palatine of
 ester, or his deputy there, whereby our said lord the king com-
 nded the said chamberlain, or his deputy, that by writ of our said
 d the king, under the seal of the said county palatine of our lord
 king duly to be made and to be directed to the sheriff of the said
 county

county palatine, the said chamberlain, or his deputy, should command the said sheriff that he take the said John Burgeſs, deſcribed in the ſaid writ by the name and deſcription of John Burgeſs, late of Lynn, in the ſaid county palatine of Cheſter, corn-factor, if he ſhould be found in his bailiwick, and him ſafely keep, ſo that the ſaid chamberlain, or his deputy, might have his body before our ſaid lord the king in three weeks of the Holy Trinity, whereſoever our ſaid lord the king ſhould then be in England, to answer the ſaid Tobias Atkinſon of the plea in that writ mentioned, and that the ſaid chamberlain, or his deputy, ſhould have there that writ, which ſaid writ requiring bail for two hundred and ſixty pounds and upwards, by indorſement made thereon, by virtue of an affidavit duly filed in the ſaid court of our lord the king, before the king himſelf, according to the form of the ſtatute in ſuch caſe made and provided, the ſaid Tobias Atkinſon afterwards, and before the return thereof, to wit, on the nineteenth day of June, in the year of Our Lord 1775 aforeſaid, at Cheſter, in the ſaid county palatine of Cheſter, did deliver to Owen Salisbury Brereton, eſquire, then and there, until and at the return of the ſaid writ being chamberlain of the ſaid county palatine, at Cheſter, to be executed in due form of law; whereupon the ſaid Owen Salisbury Brereton afterwards, to wit, on the ſame day and year laſt aforeſaid, at Cheſter aforeſaid, in the ſaid county palatine, did make a certain writ of our ſaid lord the king, ſealed with the ſeal of the ſaid county palatine, directed to the then ſheriff of the ſaid county palatine of Cheſter, whereby it was commanded to the ſaid ſheriff that he ſhould take the ſaid John Burgeſs, deſcribed in the ſaid laſt-mentioned writ by the name and deſcription of John Burgeſs, late of Lynn, in the ſaid county, corn-factor, if he might be found in his bailiwick, and him ſafely keep, ſo that he might have his body before our ſaid lord the king at Weſtmiſter aforeſaid, in three weeks of the Holy Trinity, whereſoever our ſaid lord the king ſhould then be in England, to answer the ſaid Tobias Atkinſon of a plea that the ſaid John Burgeſs render to the ſaid Tobias Atkinſon one thouſand two hundred pounds of lawful money of Great Britain, which the ſaid John Burgeſs owed to and unjuſtly detained from him the ſaid Tobias Atkinſon, as it was ſaid, and what he ſhould do in the premiſes he ſhould certify to our lord the king at Cheſter, in his exchequer there, before the return aforeſaid; and that the ſaid ſheriff ſhould have there the ſaid laſt-mentioned writ, which ſaid laſt-mentioned writ requiring bail for two hundred and ſixty pounds and upwards, by indorſement made thereon, according to the exigency of the ſaid writ and indorſement thereon, ſo iſſuing out of the ſaid court of our ſaid lord the king, before the king himſelf as aforeſaid, the ſaid Tobias Atkinſon afterwards, and before the return thereof, to wit, on the ſame day and year laſt aforeſaid, at Cheſter aforeſaid, in the county palatine of Cheſter aforeſaid, did deliver to Thomas Patten, eſquire, then, and continually from thence until, and at, and after the return of the ſaid laſt-mentioned writ, being ſheriff of the

the county palatine of Chester, to be executed in due form of law; by virtue of which said last-mentioned writ the said Thomas Patten, sheriff of the said county palatine of Chester afterwards, and before the return of the said last-mentioned writ, to wit, at Chester aforesaid, in the said county palatine of Chester, made his warrant writing, under the seal of his office of sheriff of the said county palatine of Chester, directed to one John James, one Richard Moore, one John Woodstock, one John Ellis, one Thomas Layton, one Joseph Clayton, one Richard Parker, one John Dixon, one Joseph Barrett, one John Hazlehurst, and one James Edgway, his bailiffs, and to each and every of them, jointly and severally, and thereby by virtue of his majesty's said writ to him directed and delivered, he commanded them that they or one of them should take the said John Burges, described in the said warrant by the name and description of John Burges, late of Lynn, his county, corn-factor, and him safely keep, so that the said sheriff might have his body before our said lord the king in three weeks of the Holy Trinity, wheresoever he should be then in England, to answer the said Tobias Atkinson in the plea aforesaid, which said warrant the said Tobias afterwards, and before the return of the said several writs, or either of them, to wit, on the twenty-third day of June, in the year of Our Lord 1775 aforesaid, delivered to the said Joseph Barrett, then and there being an officer and bailiff of the said sheriff, to be executed in due form of law: And the said John Burges further says, that afterwards, and before the first day of January, in the year of Our Lord 1776, to wit, on the same day and year last aforesaid, at Chester aforesaid, in the county of Chester, he the said Joseph Barrett, so being an officer and bailiff of the said sheriff, in execution of the said warrant, and by virtue of the said writ, did arrest the said John Burges, and did then and there take the said John Burges into actual custody, and did keep and detain the said John Burges in such custody of the said Joseph Barrett, so being an officer of the said sheriff, until the said John Burges afterwards, and before the said first day of January, in the year of Our Lord 1776, to wit, on the twenty-third day of June, in the year of Our Lord 1775, at Chester aforesaid, in the said county of Chester, did give bail to the said sheriff for his appearance in the said court of our said lord the king, before the king himself, at Westminster aforesaid, to answer to the said Tobias of the plea aforesaid, to wit, the said John Burges, together with one Edward Vinmer and one John Malles as his sureties afterwards, and before the return of the said writs, or either of them, to wit, on the same day and year last aforesaid, at Chester aforesaid, became bound by their bond to the said sheriff by the name of Thomas Patten, esquire, sheriff of the said county of Chester, in the sum of five hundred and twenty pounds, to be paid to the said sheriff upon demand, and with a condition thereunto underwritten, that if the said John Burges did appear before his majesty in three weeks of the Holy Trinity, wheresoever his majesty should then be in England, to answer the

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said Tobias of a plea that the said John Burgeſs ſhould render to the ſaid Tobias one thouſand two hundred pounds of lawful money of Great Britain, which the ſaid John Burgeſs owed and unjuſtly detained from the ſaid Tobias, as was ſaid, then the ſaid obligation to be void and of none effect, or elſe to be and remain in full force and virtue: And the ſaid John Burgeſs further ſays, that before the twenty-fixth day of June, in the year of Our Lord 1776, to wit, on the twenty-fourth day of June, in the year of Our Lord 1776, the ſaid John Burgeſs perſonally came before ſir Richard Aſhton, knight, then being one of the juſtices of the court of our ſaid lord the king, before the king himſelf, at his chamber in , and there rendered himſelf in diſcharge of the ſaid bail in the ſaid plea at the ſuit of the ſaid Thomas, and the ſaid John Burgeſs was thereupon then and there by the ſaid juſtice committed to his majeſty's priſon, commonly known by the name of the King's Bench priſon, in the county of Surry, in diſcharge of his ſaid bail at the ſuit of the ſaid Tobias in the ſaid plea, as by the ſaid render and commitment may more fully appear: And the ſaid John Burgeſs further ſays, that from the time of the ſaid commitment, continually until and at the time of his diſcharge herein after-mentioned, the ſaid John Burgeſs remained and was a priſoner in his majeſty's priſon, commonly called the King's Bench priſon, in the county of Surry, and in actual cuſtody of the keeper of the ſaid priſon, at the ſuit of the ſaid Tobias Atkinſon, afterwards, and before the publiſhing of the notice hereinafter firſt-mentioned, to wit, on the twenty-ninth day of July, in the year of Our Lord 1776, did deliver to Benjamin Thomas, eſquire, then being keeper of the ſaid priſon, a true and perfect ſchedule, containing a diſcovery of all the real and perſonal eſtates of the ſaid John Burgeſs, ſigned with the chriſtian and ſurname of the ſaid John Burgeſs, and atteſted by the ſaid Benjamin Thomas, as ſuch keeper as aforeſaid: And the ſaid John Burgeſs further ſays, that after he had delivered ſuch ſchedule at aforeſaid, to wit, on the ſame day and year laſt aforeſaid, being more than thirty days before the adjournment of the general quarter ſeſſions for the county of Surry, hereinafter-mentioned, he the ſaid John Burgeſs did cauſe a certain notice, ſigned by the ſaid John Burgeſs, and counter ſigned by , to be inſerted in the London Gazette, that he the ſaid John Burgeſs, , then confined in , did thereby give that public notice, being the firſt, that he did intend to take the benefit of an act, paſſed in the ſixteenth year of his preſent majeſty's reign, intituled, "An Act for the Relief of Insolvent Debtors, and for the Relief of Bankrupts in certain Caſes," and did thereby give notice, that a true and perfect ſchedule, containing a diſcovery of all his real and perſonal eſtates thereafter to be ſworn to, was then ready to be delivered to any creditor applying for the ſame in manner aforeſaid, to the gaoler or keeper, or his deputy, of ; and that he the ſaid John Burgeſs, afterwards, to wit, on the day of, &c. did cauſe a ſecond notice, ſigned by the ſaid John Burgeſs, and counter ſigned

igned by , to be inserted in the London Gazette, that he the said John Burgeſs, , then confined in , did thereby give that public notice, being the ſecond, that he did intend to take the benefit of an act paſſed in the ſixteenth year of his preſent majeſty's reign, intituled, " An Act for the Relief of Inſolvent Debtors, and for the Relief of Bankrupts in certain Caſes;" and that he the ſaid John Burgeſs afterwards, and more than ten days before the holding of the general quarter ſeſſions, holden by adjournment as hereinafter-mentioned, to wit, on the day of, &c. did cauſe a third notice, ſigned by the ſaid John Burgeſs, and counter ſigned by , to be inserted in the London Gazette, that he the ſaid John Burgeſs, , then confined in , did thereby give that public notice, being the third, that he did intend to take the benefit of an act, paſſed in the ſixteenth year of his preſent majeſty's reign, intituled, " An Act for the Relief of Inſolvent Debtors, and for the Relief of Bankrupts in certain Caſes:" And the ſaid John Burgeſs further ſays, that before the diſcharge of the ſaid John Burgeſs hereinafter-mentioned, to wit, on , the day of, &c. the keeper of the ſaid priſon did, in purſuance of the ſaid act, make a true, perfect, and exact liſt and alphabet of the names of all and every perſon or perſons, who upon the twenty-ſecond day of January, in the year of Our Lord 1776, was or were, or at any time ſince had been; and at the time of making out the liſt were actual priſoners in the cuſtody of the ſaid keeper upon any proceſs whatſoever, for or by reaſon of any debt, damages, coſts, ſum or ſums of money, contempt, or matter, under the terms and conditions in the ſaid act mentioned, and that the name of the ſaid John Burgeſs ſo being in the cuſtody of the ſaid keeper, was then and there inserted in the liſt: And the ſaid John Burgeſs further ſays, that afterwards, at the general quarter ſeſſions of the peace of our ſovereign lord the king, holden at Southwark by adjournment, in and for the ſaid county of Surry, on Monday, the twenty-ninth day of July, in the year of Our Lord 1776, holden before certain then juſtices of the peace of our ſovereign lord the now king in and for the county of Surry aforeſaid, and alſo to hear and determine divers felonies, treſpaſſes, and miſdeeds committed in the ſaid county of Surry, the ſaid , ſo being keeper of the ſaid priſon, did deliver the ſaid liſt to the ſaid juſtices of the peace at their ſaid adjournment; and the ſaid John Burgeſs ſo being in actual cuſtody as aforeſaid, and his name ſo being inserted in the ſaid liſt, did then and there ſhew at the general quarter ſeſſion of the peace ſo held by adjournment, according to the directions, and in manner preſcribed by the ſaid act, and that he the ſaid John Burgeſs was actually a priſoner in cuſtody of the ſaid keeper of the ſaid priſon on the ſaid day of , in the year of Our Lord 17 , for the reaſons and in manner aforeſaid, and did then and there alſo deliver a true ſchedule and account of all his real eſtate, either in poſſeſſion, reversion, remainder, or expectancy, and alſo of the whole

of his personal estate which he, or any person or persons in trust for him, or his use, benefit, or advantage, was and were seized of, interested in, or intitled to, or was or were in his possession at any time since his commitment to prison, with the names of his several debtors, and where they severally lived or might be met with, and the several sums of money from them respectively owing, and how the same respectively became due and were secured, and the name and names, and places of abode where the several witnesses who could prove such debts or contracts due to the said John Burges by mortgage, special contract, note or other writing, according to the description and true intent and meaning of the said act, and did then and there also make oath and swear to the effect in the said act in such case prescribed, and directed, and did then and there subscribe the said last-mentioned schedule and oath in the presence of the said justices, in open session of the peace, in manner and form as is by the said act directed: And the said John Burges further says, that the said justices of the peace then and there present, or the major part of them, being satisfied with the truth of the oath so taken by the said John Burges, so then being such prisoner as aforesaid, they the said justices did at the said adjournment of the said general quarter sessions, under and by virtue of the said act, then and there command the keeper of the said prison forthwith to discharge the said John Burges out of his custody, and the said keeper of the said prison did then and there forthwith discharge the said John Burges accordingly; and this, &c.; wherefore, &c. if the said John Newton ought to have execution against the person of the said John Burges for the debt or damage aforesaid, &c.: And for further plea in this behalf, the said John Burges, by leave of the court here first had and obtained, according to the form of the statute in such case made and provided, says, that he cannot deny that the said writing-obligatory in the said declaration of the said John Newton mentioned, is the deed of the said John Burges; but the said John Burges further says, that the said John Newton ought not to have execution against the person of the said John Burges; because he says, that the said debt in the said writing-obligatory mentioned, and for which the said action is brought against the said John Burges by the said John Newton, was contracted by the said John Burges before the twenty-second day of January, in the year of Our Lord 1776 mentioned in a certain act of parliament made in the sixteenth year of the reign of our lord the now king, intituled, "An Act for the Relief of Insolvent Debtors, and for the Relief of Bankrupts in certain Cases;" and that the said John Burges, before the first day of January, in the year of Our Lord 1776, to wit, on the twenty-third day of June, in the year of Our Lord 1775, being arrested and in the actual custody of one Tobias Barrett, who then and there was an officer of the sheriff of the county palatine of Chester, for the executing of process within the said county of Chester,

ad, In effect the same, but alleging the arrest, detention, and discharge more generally.

er, by virtue of a certain writ of *testatum capias* before that time issued out of the court of our said lord the king, before the king himself, at the suit of the said Tobias Atkinson, and of a certain other writ of our said lord the king, by virtue thereof, before that time issued, sealed with the seal of the said county palatine of Chester, was held to bail: And the said John Burges further says, that before the twenty-sixth day of June, in the year of Our Lord 1776 aforesaid, at Westminster, in the county of Middlesex, he the said John Burges did personally come before Sir Richard Ashton, knight, then and there being one of the justices of our said lord the king, before the king himself, and surrender himself in discharge of his said bail, and was thereupon then and there by the said justices committed to his majesty's prison, commonly known by the name of the King's Bench prison, in the county of Surry, in discharge of his said bail, and that the said John Burges so being in custody in the said prison, afterwards, to wit, at the general quarter sessions of the peace of our sovereign lord the king, holden at Southwark, in the said county of Surry, by adjournment, in and for the county of Surry, on Monday the twenty-ninth day of July, in the year of Our Lord 1776, was in due manner, by force of, and according to the form of the said act, discharged; and this, &c.; wherefore, &c. if the said John Newton ought to have execution against the person of John Burges, &c.

SAMUEL HEYWOOD.

AND the said George Hodgkinson, in his proper person, comes and defends the wrong and injury, when, &c. and praysoyer of the said writing-obligatory, and it is read to him, &c.; he also praysoyer of the condition of the said writing-obligatory, and it is read to him in these words, to wit: (Set out the condition); which being read and heard, the said George says, that the said William ought not to have or maintain his aforesaid action thereof against him; because he says, that he the said George, after the said day mentioned in the said condition for the payment of the said sum of fifty pounds, with interest at the rate aforesaid, and in the lifetime of the said Edward, to wit, on the first day of November, in the year of Our Lord 1769, paid to the said Edward the said sum of fifty pounds in the said condition mentioned, according to the form of the statute in such case made and provided, together with all interest due for the same, to wit, at Mansfield, in the county of Nottingham aforesaid; and this he is ready to verify; wherefore he prays judgment if the said William ought to have or maintain his aforesaid action thereof against him, &c.: And the said George for further plea in this behalf, byave of the court here to him for that purpose granted, according to the form of the statute in such case made and provided, says, that the said William ought not to have or maintain his said action thereof against him; because he saith, that the said Edward, before and at the time of his death, was, and the said William, as

Plea of payment after the day, according to the statute.

ad, A set-off on promissory note and money.

such executor as aforesaid at the time of exhibiting the bill of the said William in this behalf, was and still is justly and truly indebted to the said George in more money than is due and owing from the said George to the said William upon the said bond or writing-obligatory in the said declaration mentioned, and the condition thereof, that is to say, in the sum of six pounds eighteen shillings and fourpence halfpenny, upon and by virtue of a certain note commonly called a promissory note, bearing date the twenty-ninth day of April, in the year of Our Lord 1771, made by the said Edward Beedham in his lifetime, to wit, on the same day and year last aforesaid, at Mansfield aforesaid, and then and there delivered to the said G. Hodgkinson, by which said note the said Edward Beedham promised to pay to the said G. H. or order on demand the said six pounds eighteen shillings and fourpence halfpenny value received, and also in the further sum of one hundred and fifty pounds of lawful money of Great Britain, for so much money by the said Edward in his life-time had and received to and for the use of the said George, and also in the further sum of one hundred and fifty pounds of like lawful money, for so much money by the said George lent and advanced to the said Edward in his lifetime, at his special instance and request; and also in the further sum of one hundred and fifty pounds of like lawful money, for so much money by the said George paid, laid out, and expended to and for the use of the said Edward in his lifetime, at his like special instance and request, to wit, at Mansfield aforesaid, in the county aforesaid, so much of which said several sums of money so due and owing from the said William, as such executor as aforesaid, to the said George, as will be sufficient to satisfy the said William the money due to him upon and by virtue of the said writing-obligatory in said declaration mentioned, and the condition thereof, he the said George will deduct and set-off according to the form of the statute in such case made and provided; and this he is ready to verify; wherefore he prays judgment if the said William ought to have or maintain his said action thereof against him, &c.

GEORGE BOND.

Replication,
taking issue on
the plea of pay-
ment.

And the said William, executor as aforesaid, as to the said plea of the said George by him first above pleaded in bar, says, that he ought not, by reason of any thing in that plea alledged, to be precluded from having and maintaining his aforesaid action against the said George; because he says, that he the said George did not, after the said day mentioned in the said condition of the said writing-obligatory for the payment of the said sum of fifty pounds, with interest at the rate aforesaid, and in the lifetime of the said Edward pay to the said Edward the said sum of fifty pounds in the condition mentioned, together with all interest due for the same as aforesaid, in manner and form as the said George hath above in his said plea by him first above pleaded in bar in that behalf alledged; and this he the said William, executor as aforesaid, prays

prays may be enquired of by the country, &c.: And the said William, as to the said plea of the said George by him lastly above pleaded in bar, says, that he the said William ought not, by reason of any thing therein contained, to be barred from having and maintaining his aforesaid action against him the said George; because he says, that the said E. B. in his lifetime was not, nor was nor is the said William, executor as aforesaid, within six years next before the exhibiting the bill of the said William in this behalf, indebted to the said George in manner and form as the said George hath in his said plea by him lastly above pleaded in bar in that behalf alledged; and this he the said William is ready to verify; wherefore he prays judgment and his said debt, together with his damages by him sustained on occasion of the detention thereof to be adjudged to him.

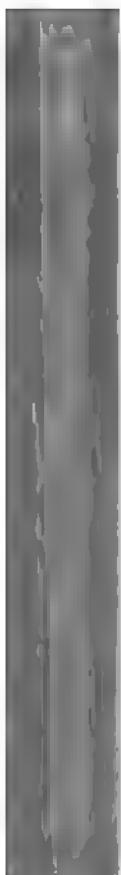
To 2d plea, *nil debet infra sex annos.*

AND the said Abel, by A. B. his attorney, comes and defends the wrong and injury, when, &c. and craves oyer of the said writing-obligatory, and it is read to him, &c. he also craves oyer of the condition of the said writing-obligatory, and it is read to him in these words, that is to say, &c. &c.; which being read and heard, the said Abel saith, that he ought not to be charged with the said debt by virtue of the said writing-obligatory; because he says, that after the first day of May A. D. 1711, and before the making the said writing-obligatory, to wit, on the tenth day of May A. D. 1744, to wit, at Westminster aforesaid, certain persons being then and there wholly unknown to the said Abel, and which being on one side were stiled county of Kent, played at a certain game called cricket with certain other persons to the said Abel also unknown, and which being on the other side were stiled All England; and that the said James then and there, by betting for money with the said John Parsons on the sides or hands of the said persons, which on the one side were stiled the County of Kent, so playing at the said game, then and there won of the said John Parsons the sum of twenty-five guineas on tick and credit, and that after the said first day of May A. D. 1711 aforesaid, and before the making of the said writing-obligatory, to wit, on the seventeenth day of May A. D. 1744, at Westminster aforesaid, certain other persons then and there wholly unknown to the said Abel, and which being on one side were stiled the county of Kent, played at the said game called cricket, with certain other persons to the said Abel also unknown, and who on the other side were stiled All England; and that the said James then and there by betting for money with the said John Parsons on the sides or hands of the said persons, which on the one side were stiled the County of Kent, so playing at the said game, then and there won of the said John Parsons another sum of twenty-five guineas on tick and credit, and for which two several sums of money no part whatsoever was then or at any other time afterwards paid by the said John Parsons to the said James, except by the giving and

Plea, that part of the consideration for the bond was money won by betting at two cricket matches, and that the bond was to secure the payment of an annuity, and the defendant only a surety in it, &c. *contra form. tuci.*

executing to the said James the several writings-obligatory hereafter mentioned, and that after the said winning of the said several sums of money as aforesaid, after the said first day of May, in the year of Our Lord 1711, and before the making of the said writing-obligatory brought here into court, to wit, on the third day of July A. D. 1744 aforesaid, at Westminster aforesaid, it was agreed by and between the said John Parsons and the said James, that the said James should pay and give the said John Parsons the sum of four hundred and forty-seven pounds ten shillings of lawful money of Great Britain, and make up the said two several sums of twenty-five guineas each, won by the said James of the said John Parsons, by betting as aforesaid, the full and exact sum of five hundred pounds, to wit, of the said two several sums of twenty-five guineas each so won as aforesaid, and of the said four hundred and forty-seven pounds ten shillings so to be paid and given as aforesaid, and as if the said whole five hundred pounds had been paid in hand by the said James to the said John Parsons, make and execute to the said James his the said John Parsons writing-obligatory in the penal sum of one thousand pounds, with the condition thereunto subscribed, for the payment to the said James of the full annual or yearly sum of one hundred pounds by four equal and quarterly payments in every year, the first payment of twenty-five pounds to be made on the feast of St. Michael the Archangel then next ensuing, and so to continue on each successive quarter-day during the joint lives of the said John Parsons and James; and that for further securing of the payment of the said annual or yearly sum of one hundred pounds to the said James during their joint lives, the said Abel, as a surety for the said John Parsons, should likewise make and execute to the said James his the said Abel's writing-obligatory in the penal sum of one thousand pounds, with the condition thereunto subscribed for the said John Parsons, in the consideration of the said five hundred pounds, that is to say, of the said two several sums of twenty-five guineas each so won as aforesaid, and of the said four hundred and forty-seven pounds ten shillings so to be paid and given to him as aforesaid, and as if the whole five hundred pounds had been in hand paid to the said John Parsons by the said James, at or before the sealing and delivery of such writing-obligatory of the said James, his paying or causing to be paid yearly and every year to the said James the said one full annual and yearly sum of one hundred pounds, &c. (as before): And the said Abel further saith, in pursuance of the said agreement the said James afterwards, to wit, on the said third day of July, in the year of Our Lord 1744 aforesaid, at Westminster aforesaid, paid and gave to the said John Parsons the said sum of four hundred and forty-seven pounds ten shillings so agreed to be paid and given to him as aforesaid, to make up the said several sums of twenty-five guineas each so won as aforesaid, the said full sum of five hundred pounds; and the said John Parsons, in consideration of the said five hundred pounds, to wit, of the said two several sums of twenty-five guineas each so won as aforesaid, and of the
said

ur hundred and forty-seven pounds ten shillings so paid and by the said James to the said John Parsons as aforesaid, and the said whole five hundred pounds had been paid in hand by the said James to the said John Parsons, then and there made and sealed to the said James his the said John Parson's writing-obligation in the penal sum of one thousand pounds with the condition thereunto subscribed, for payment to the said James of the said full and yearly sum of one hundred pounds, the first payment (before) : And the said Abel then and there in further pursuance thereof according to the said agreement, then and there made and sealed to the said James the said writing-obligatory here brought into court, with the said condition subscribed thereunto as a surety, the said John Parsons paying or causing to be paid the said full or yearly sum of one hundred pounds to the said James in or before the time aforesaid, and during the time aforesaid, in full performance of the said agreement, whereby and by force of the statute in such behalf made and provided, the said writing-obligatory became and is now void in law ; and this, &c. ; wherefore, &c. if the said Abel, by reason of the said writing-obligatory, ought to be charged with any debt, &c.



I N D E X.

GENERAL DIVISIONS OR HEADS, AND LEADING TITLES IN THE CIVIL DIVISION.

CHANCERY PLEADINGS,

ISSUING OUT OF SUCH AS FEIGNED ISSUES, &c.,
Deviseavit vel non, (See ASSUMPSIT, Vol. I.) &c.

DEBT—ANALYSIS OF.

SIMPLE CONTRACTS, and AGREEMENTS UNSEALED,

1. MUTUATUS.
2. SUR EMISSIT.
3. ON ACCOUNT.
4. SUR CONCESSIT SOLVERE. } (1)
5. PAROL DEMISE.
6. RENT.
7. FEES, &c. &c.

and

1. ON BYE LAWS. (2)
2. ESCAPES. (3)
3. FINES and AMERCIAMENTS. (4)
4. FOREIGN JUDGMENTS. (5)
5. PORT DUES. (6)

SPECIALTIES.

1. ON ARTICLES OF AGREEMENT SEALED. (7)
2. AWARDS. (8) (See Debt on Arbitration Bonds.)
3. BILLS PENAL. (9)
4. BONDS.

- | | | |
|--|---|--|
| $\left\{ \begin{array}{l} 1. \text{ By and against Parties them-} \\ \text{ selves. (10)} \\ 2. \text{ ————— their Repre-} \\ \text{ sentatives. (11)} \\ 3. \text{ ————— their Assigns.} \end{array} \right.$ | $\left. \begin{array}{l} \text{See} \\ \text{post.} \end{array} \right\}$ | $\left\{ \begin{array}{l} \text{Debt on Bond for} \\ \text{Payment of Mo-} \\ \text{ney.} \\ \text{Executors and Ad-} \\ \text{ministrators, Heirs,} \\ \text{and Devises.} \end{array} \right.$ |
|--|---|--|

- | | | |
|---|---|---|
| $\left\{ \begin{array}{l} 1. \text{ Bail Bond.} \\ 2. \text{ Replevin Bond.} \end{array} \right.$ | $\left\{ \begin{array}{l} 1. \text{ By Assignee.} \\ 2. \text{ Sheriff.} \end{array} \right.$ | $\left. \begin{array}{l} \text{post.} \end{array} \right\}$ |
|---|---|---|

4. ANNUITY. (12)
5. ARBITRATION. (13)
6. BAIL
 1. By Sheriff. } (14)
 2. By Assignee. }
7. BASTARDY. (15)
8. BOTTOMREE. (16)
9. INDEMNITY. (17)
10. REPLEVIN.
 1. By Assignee. } (18)
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6. INDENTURES. (20)
7. LEASES. (21)
8. MORTGAGES. (See Indentures, Leases, Articles of Agreement.)

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III. ON RECORDS.

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IV. ON PENAL STATUTES, in Alphabetical Order. (24)

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2. In AVOIDANCE.

1. Coverture.

2. Durefs.

3. Escrow Bonds upon
condition not per-
formed.

4. Infancy.

5. Statutes of Gaming.

6. ———— Usury.

Or, 3. In DISCHARGE.

1. Accord and Satisfaction.

2. Bankruptcy.

3. Foreign Attachment.

4. Illegal Consideration.

5. Insolvent Debtors Acts.

6. Judgments Recovered.

7. Licence.

8. *Non Compos Mentis*.

9. Outlawry.

10. Payment.

11. Release.

12. *Solvit ad et post. Diem*.

13. Statute of Limitation.

14. Tender.

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19. Mortgages. (46).

On RECORDS.

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On PENAL STATUTES. (49)

I. Debt on Simple Contracts.
Mutuatus, &c. (1).

PRECEDENTS in
BOOKS of PRACTICE,
REPORTERS, &c.

12.
7.
8e
5. Declaration in debt for goods sold and delivered; 2d Count, on a *mutuatus*; judgment by *nil dicit*.
 7. Declaration in debt on a *mutuatus*; money had and received; an account stated, &c.
 9. Declaration in debt, common money counts for money laid out; *indebitatus* and *quantum meruit* for carriage of goods; goods sold and delivered; money lent, had, and received.
 1. Declaration in debt against defendant, for not paying the plaintiff a sum of money lent on certain premises.
 3. Declaration in debt by the proprietors of the Dudley canal against defendant, for a sum of money, being his share for defraying the expences of the canal.
 5. Debt for an *attorney's* bill; 1st Count, on the contract and consideration, being business done as attorneys in prosecuting suits, &c.; 2d Count, upon the *quantum meruit*; 3d Count, money laid out; 4th Count, account stated.
 7. Debt on a *mutuatus*; for money had and received; an account stated, &c.
 8. Debt on a *promissory note* upon a *mutuatus*, and upon an *infirmul computasset*.
 9. Debt for depasturage of cattle, *quantum meruit*; goods, &c. sold and delivered; *quantum meruit*; money had and received; an account stated.
 1. Declaration in debt for a quit rent by the lord of the manor against the owner of a freehold estate within the manor; and opinion.
 3. Declaration in debt on stat. 4. G. 2. c. 26. for double rent, at the suit of *executors* of lessor against lessee, for not quitting according to notice given by testator. (*See Debt on Statutes, post.*)
 6. Declaration in debt for rent, at the suit of lessor against the assignee of lessee of a lease for years, and on a parol demise, for rent from year to year, and on sufferance.
 1. Declaration in debt against defendant, for not paying the plaintiff a sum of money lent on certain premises.

Debt on a *mutuatus*, - - - - -
Declaration in debt on *mutuatus* in C. B. being the usual declaration for entering up judgment on a warrant of attorney, - - - - -
Declaration in debt on two *promissory notes* payable by instalments, and a *mutuatus* at the suit of an administratrix, -

1. R. P. B. R. 133

Mor. Pr. 547

Ibid. 548
Debt

PRECEDENTS;
BOOKS OF PRACTICE;
REPORTERS, &c.

Debt on <i>mutuatus</i> in C. B.	1. R. P. C. B. 118
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Debt against administrator for <i>rent</i> arrear in intestate's life-time,	Lill. Ent. 111
Debt in C. B. by the lessor against the lessee of a messuage and lands, for rent in arrear,	<i>Ibid.</i> 185
Debt for <i>rent</i> of a house on a <i>parol demise</i> for so long as both parties should please; 1st Count, for a year's rent, payable half yearly; 2d Count, for a year and a quarter's rent, payable quarterly,	Pl. Aff. 345
Declaration in debt on a <i>parol demise</i> for rent, against a tenant from year to year,	<i>Ibid.</i> 349
Declaration in B. R. in debt for <i>rent</i> ; 1st Count, on a demise for three years; 2d Count, for one year,	<i>Ibid.</i> 367
Declaration in B. R. in debt, brought by plaintiff, as executor, against defendant, for <i>goods sold</i> by the testator,	2. Mod. Ent. 177
Declaration in debt on a <i>mutuatus</i> , by an executor, and the husband and wife, co-executrix of an executor of the first testator,	<i>Ibid.</i> 177
Declaration in C. B. in debt for an attorney's fees,	2. Mod. Ent. 247
Debt for <i>goods sold</i> and delivered; with common money counts. Special demurrer, with causes,	3. T. R. 28

Rent. Parol Demise. (*See Leases, post.*)

For rent of a messuage on a *parol demise* for years not expired, rendering rent, *Bro. R.* 169. *Mo. Intr.* 166. where the lease was expired, *Re. Dec.* 212.

Of chambers demised from year to year at the will of plaintiff and defendant; 1. *San.* 202. *Br. R.* 208. Demise to hold at the will of the plaintiff, *Pl. Gen.* 251. *Re. Dec.* 217. To hold at the will of plaintiff and defendant tenements for two years, *Han.* 76. *Mo. Intr.* 174. 2. *Ven.* 151. For rent payable monthly, 2. *Ven.* 176. Weekly, *Re. Dec.* and on several *habendums*, and for term determinable on a contingency.

For rent payable on two feast days, 1. *Br.* 183. *Vid.* 162. *Bro. R.* 226. At four feast days, 1. *San.* 202. *Wi. Entr.* 125. *Bro. R.* 208. 330. 2. *Ven.* 177. 250.

Rent of a messuage for five years, and rent arrear for one year, *Bro. Vad.* 186. 1. *Bro.* 161. *Mo. Entr.* 173. *Cl. Man.* 212. For one year and an half, *Vid.* 152. For half a year, 1. *San.* 1. *Clif.* 256. *Mo. Intr.* 166. By executor, 2. *Inst. Cl.* 232.

Of tenements demised for a year, and from year to year, at the will of plaintiff and defendant, and defendant held the tenements for four years, and rent arrear for the whole term, 2. *Br.* 72. 1. *San.* 202. For a year, *Cl. Man.* 211. For two years, *Han.* 91. Of a rectory for two years, *Tho.* 108. Messuage and lands for three years, *Ibid.* 117. *Pl. Gen.* 252. Lands for half a year, *Tho.* 152. For three quarters, *Bro. R.* 208. 1. *San.* 202. For nineteen months, 2. *Ven.* 176.

By administrator of a vicar, for rent prescribed to be due by defendant, proprietor of the rectory, *Bro. R.* 169.

Against tenant at will upon a lease *parol*, for the rent of five quarters of wheat, *Bro. Met.* 180.

Against an attorney, for rent, *Bro. R.* 208.

RETAINED.

RETAINER.

to sue and defend all writs for defendant in the bench, to take twentypence for every fee, *Ra. Ent.* 202. *Vet. Ent.* 67.

for advising, suing, and defending, as an attorney in B. R. and C. B. for seven years, and taking for every year thirteen shillings and fourpence, *Ra. Ent.* 202. *Vet. Intr.* 68. *Ra. Ent.* 203.

to pass a fine, *Asht.* 184. To suffer a common recovery, *Asht.* 212.

for a chaplain retained for a year, and discharged within the year, *Ra. Ent.* 153. By a person retained in the service as valet for a year, *Ra. Ent.* 202. *Vet. Intr.* 220. *Wilk.* 270.

for a retainer for a year in husbandry, *Asht.* 196.

for a broker for half a year, *Ra. Ent.* 203. *Vet. Intr.* 68.

for the office of under-sheriff within the rape for a time certain, *Ra. Ent.* 202. By a taylor, 3. *Br.* 161.

for a horse let to ride for three weeks, to pay twenty pounds, and tweldepence for every day after, 1. *Bro.* 163. 2. *Inst. Cl.* 318.

for a curate retained, *Bro. M.* 170. 2. *Inst. Cl.* 331. 1. *Br.* 77. By a *prestyer* retained, 1. *Bro.* 176. *Ra. Ent.* 202.

for a person retained to serve for one year, and so from year to year for five years, and served defendant that time, *Han.* 90.

for a retainer to serve a year, and on *mutuatus*, part of which was satisfied, *Tho.* 131.

for a retainer to serve in the manufactory of S. for a year, *Han.* 90.

FEES.

for a prothonotary against attorney, for fees of entering and enrolling pleas, 1. *Bro.* 177. *Bro. Vad.* 249.

for a counsellor at law on a general retainer, *Bro. R.* 172. for two years, *Ra. Ent.* 194. *Vet. Intr.* 23. 1. *Br.* 80.

for an attorney retained to prosecute and defend two actions in C. B. taking for each term in both three shillings and fourpence, besides costs and expences, 1. *Bro.* 183. 2. *Bro.* 82. In C. B. *Bro. Met.* 152.

for fees and expences after part paid, 154.

for an attorney retained to appear for defendant in B. R. and defend a suit in trespass and assault, taking for every term three shillings and fourpence, besides costs and expences; and on another retainer in the same form, *Tho.* 111.

for a clerk of B. R. retained as solicitor in chancery by defendant, to sue and defend, taking every term six shillings and eightpence beyond costs and expences, *Han.* 77. *Ra. Ent.* 202. By attorney, *Bro. Met.* 150. by clerk to sue in B. R. 2. *Inst. Cl.* 347.

for an attorney retained to sue in C. B. *Bro. R.* 176. *Han.* 92. *Co. Ent.* 121. 1. *Br.* 89.

On a general retainer in C. B. *Pl. Gen.* 270. *Bro. Vad.* 206.

for a clerk of chief clerk, *Cl. Man.* 277. *Han.* 69. 77.

for an executor of prothonotary, on account with plaintiff, for money due for entries by defendant, an attorney, *Bro. R.* 179.

for a prothonotary's clerk retained to draw declaration to plead, enrol the proceedings, and make six copies of demurrer, *Asht.* 183.

for an officer of the court of exchequer against the deputy sheriff, to render an account for advising in business of an account, *Vet. Ent.* 225.

By

- By the rector and scholars of a college for money due for *commons*, *Tbo.* 124.
 By the *principal of Clifford's Inn*, for *commons* and pensions due, *Br. R.* 219.
 For lodging let to defendant at the will of plaintiff, and for board of defendant's son as long as plaintiff should please for forty shillings *per annum*, *Pl. Gen.* 316.
 For medicines and board with plaintiff, under whose care defendant (being in ill health), had put himself, 1. *Bro.* 166. *Ra. Ent.* 187. 153. *Vet. Int.* 126.
 Against an *executor*, for the board of testator's sister, 2. *Inst. Cl.* 330.
 For depasturing defendant's horse from year to year, to be paid yearly ten shillings, horse was agisted for five years, 1. *Bro.* 165. *Pl. Gen.* 319.
 On an agreement to pay twenty pounds on request to plaintiff, and that plaintiff should marry defendant's daughter, *Mo. Ent.* 150. *Ra. Ent.* 178.
 On a *concessit solvere* for the marriage portion of the defendant's daughter to the plaintiff, 2. *Inst. Cl.* 328. *Ra. Ent.* 178. *Wi. Ent.* 129.
 For wares *purchased*, *Co. Entr.* 125. *Ro. Ent.* 121. By *executor*, *Cl. Man.* 276.
 For *sale* of a term for years in house and lands for ten pounds, to be paid at three payments, 1. *Bro.* 160.
 For sheep purchased for fifty pounds, to be paid for in two payments, *Bro.* 160.
 For horse to be paid for on the day of defendant's marriage, 1. *Bro.* 166.
 For pieces of cloth bought by the abbey and commonalty against the abbey, *Pl. Gen.* 319. *Ra. Ent.* 204. *Vet. Int.* 22.
Sur emisset for part, 1. *Bro.* 151. 165. 187. *Ro. Entr.* 176. *Tbo.* 123. *Cl. Man.* 269.
 For the *custody of lands, and the heir, and the marriage* of the heir, sold for one hundred and eight pounds, to be paid for on request, 1. *Bro.* 177.
 For money for the *sale* of a gold ring for ten pounds, to be paid for on the day of marriage or death, *Mo. Int.* 152.
 For a gelding *sold* for ten pounds, to be paid for on request, *Mo. Int.* 163. Wares sold, and part paid, *Pl. Gen.* 280. Hay to be paid for on request, 324.
 By *administrator sur emisset* for part, *Mo. Intr.* 170. For three cows sold, *Bro. Vad.* 163. For seven bushels of wheat, 164. By *executor sur emisset* of woollen cloth, 2. *Inst. Cl.* 277. 1. *Inst. Cl.* 319.
 For money to be paid on request, *Tbo.* 117. *Han.* 86. *Ra. Ent.* 152. *Wilk.* 271. *Mo. Intr.* 164. *Bro. Vad.* 162. *Cl. Man.* 275. 1. *Inst. Cl.* 320.
 On *mutuatus* for part, *Ra. Ent.* 152. 177. *Tbo.* 107. 111. 115. 1. *Bro.* 154. 2. *Bro.* 83. *Wi. Ent.* 191. *Ro. Ent.* 122. 200. *Han.* 90. 92. *Mo. Intr.* 170. On several *mutuatus*, *Bro. Vad.* 162.
 For money due on account, *Mo. Intr.* 164. *Bro. Vad.* 162. By an attorney on a *computasset*, *Mo. Intr.* 169. *Bro. Vad.* 163. 173. 2. *Inst. Cl.* 346. On *infimal computasset*, *Bro. Vad.* 162. 163. 1. *Inst. Cl.* 321. By *executrix* and her husband on an account between defendant and testator, *Bro. Vad.* 163.
 For money received of plaintiff by defendant to account for, *Vet. Ent.* 21. *Ra. Ent.* 149, 150. *Ro. Ent.* 120. 1. *Bro.* 160. By *executor*, *Pl. Gen.* 272. *Ra. Ent.* 149. *Vet. Ent.* 49. On account of arrears of rent, 3. *Br.* 176. *Ro. Ent.* 120. On account before auditors, *Han.* 91. 1. *Bro.* 150. *Pl. Gen.* 250. Against *administrator*, *Mo. Intr.* 155. 165. By an attorney for an account, *Mo. Intr.* 169. 3. *Br.* 176. *Ash.* 185. For surpluse of an account before auditors, 1. *Bro.* 150. *Ra. Ent.* 149, 150. *Vet. Ent.* 41. *Upper Bench. Prec.* 62.
 On *emisset* and detinue, 1. *Bro.* 187. On *demise* and *emisset*, *Ro. Ent.* 176. On *demise* and account, *Clif.* 293.
 On account, and *mutuatus*, *Ro. Ent.* 121. *Han.* 92. On account, *mutuatus*, and detinue, *Br. R.* 259. On retainer, and *mutuatus*, *Tbo.* 111. 131. *Han.* 90. *Br. R.* 172. 176. 179. On debt and detinue, *Br. R.* 186. *Mo. Intr.* 149. On *emisset* and *mutuatus* by *administrator*, *Mo. Intr.* 170.
 By an earl against the late sheriff, for money granted him on his creation by the king, to be paid to him by the sheriff, *Vet. Intr.* 226.

gainst a succeeding abbey, for money borrowed by his predecessor, *Ra. Ent.* 152. *Vet. Int.* 41. By succeeding prior against succeeding abbey, *sur emisset*, *Ra. Ent.* 204, 205.

by attorney, executor by privilege on account, 1. *Br.* 113.

gainst the bishop and ordinary, into whose hands the goods of the intestate came, *Reg.* 141. *Fnbr.* 120. Against the executor of the ordinary, *Reg.* 141. *Fnbr.* 120. Against the archbishop, by reason of his prerogative, *Ash.* 194.

by assignee of bankrupt on *emisset*, *Ash.* 196.

defendant put his son to be nursed by plaintiff's wife, for money to be paid weekly, *Ash.* 182. *Ra. Ent.* 202.

by mancipulo in Oxford, for money due for commons, &c. of defendant's son, *Ash.* 188. *Vet. Int.* 240.

by giftment of cattle, *Ra. Ent.* 151. *Vet. Ent.* 196.

by cows and oxen for a certain time, *Ash.* 201.

by *emisset* for *duodenis panis*, *Vet. Ent.* 3. Barrels of ale, *Ra. Ent.* 204. *Vet. Int.* 233. For two butts of malmsey wine, *Ra. Ent.* 168. *Vet. Int.* 64. For a horse to be paid for on a certain feast-day, *Ra. Ent.* 88.

in the defendant's marriage, *Ash.* 178. For cloaths, and eight pounds, to be paid for on a feast-day, *Ra. Ent.* 176.

RENT, AND OTHER CONTRACTS.



of a messuage, *Ra. Ent.* 152. 174. Of a messuage and one hundred acres of land, *Ra. Ent.* 152. 176. Of messuage, lands, and cattle, *Ra. Ent.* 175. Of house and furniture, *Ibid.* Of a house and vessels of a brewer, *Keil*, 153. Of different apartments within the mansion, to wit, parlours, *Ra. Ent.* 177. Of chambers within a mansion, *Ibid.* 176. Of a manor, with all the lands, &c. and services, except the wood, &c. *Ra. Ent.* 175. Of a close called B. and moiety of lands called C. parcel of a manor, *Ra. Ent.* 174. Of four acres of land, *Ra. Ent.* 152. 176. Of a rectory and tithes, 3. *Br.* 15. Of pasture for cattle for a certain time, to pay forty shillings at the end of the term, *Ra. Ent.* 655. Of a moiety of lands, 3. *Br.* 13.

rent to be paid at a day certain, *Ra. Ent.* 152. At two feasts, *ib.* 152. 174. 175. 2. *Co.* 9. To render four pounds *per annum*, and no day of payment mentioned, *Ra. Ent.* 152. To pay at another place, 175. Demise for seven years, and defendant held tenements for three years, 152. Of a messuage for one year, *Vet. Int.* 22. 42. Of a manor, except, &c. by an abbey, without writing, *Ra. Ent.* 175. On a demise held, till the feast following, rent to be paid on request, 3. *Br. R.* 12, 13.

tenements demised for a year, and from year to year at the will of plaintiff and defendant, and defendant held tenements for four years and rent in arrear to the whole term, *Ra. Ent.* 152. Of messuage, lands, and cattle, demised for a year, and from year to year, and defendant held for a year and a half, *Ra. Ent.* 175. On a parcel demise for years, rendering rent, 1. *Br.* 75.

declaration by the chamberlain of London upon a *recognizance before the mayor*, &c. for five hundred pounds of an orphan's money, *Bro. Met.* 144.

the mayor, commonalty, and citizens of the city of London against a foreigner for the customs of *scavage* granted by letters-patent, *Edw.* 4. and confirmed by parliament 23. *Hen.* 8. *Vid.* 154.

- By a *prothonotary* against an *attorney* for fees, 1. *Bro.* 177.
 By an *attorney sur computasset*, *Mo. Intr.* 169.
 By the mayor and good men of the city of G. 2. *Ven.* 243.
 Against the bishop and ordinary, into whose hands the goods of the intestate's effects have come, 1. *Bro.* 171. *Pl. Gen.* 291. 2. *Inst. Cl.* 344. Against the tutor of an infant by the bishop, *Er. R.* 220.
 Against the master and sisters *hospicii* of R. archbishop of York, *Mo. Intr.* 161.
 By the treasurer against collectors of money on the king's brief or writ, *Re. Dn.* 238.
 Debt by two and one, being an infant, sues by guardian, *Bro. Vad.* 167.
 Against an executrix and co executrix and her husband for rent, *Bro. Vad.* 231.
 By two executors for rent, *Bro. Met.* 140.
 Against an executor for rent, *Ibid.* 141.
 Against administrator for rent, *Lev. Ent.* 52. 149.
 Against administrator on *computasset*, with the intestate, *Mo. Intr.* 155. On account before auditors, *Ibid.* 165.
 Against administrator, by a servant of intestate, for wages, *Bro. Vad.* 203.

PAROL DEMISE. (See LEASES, *post.*)

- For rent of two rooms in one *area*, 2. *Ven.* 249. Upon two several demises by lease parol, *Clif.* 224. 232. 237. (See LEASES, *post.*)
 Upon a parol lease, *Mo. Intr.* 174. *Bro. Vad.* 165. 199. On several demises, *Cl. Alan.* 211. 257. Against executors, 259. 269. 2. *Inst. Cl.* 334.

RETAINER.

- By husband and wife retained in the service of a brewer for a year, and so from year to year, *Ra. Ent.* 202.
 To ride to the constable of England to obtain the discharge of plaintiff charged with treason, *Ra. Ent.* 203. *Vet. Int.* 42.
 To ride to Rome, and to say masses and prayers going and coming, *Ra. Ent.* 203. *Vet. Int.* 67.
 To procure safe conduct for defendant and his goods from the king of France, *Ra. Ent.* 203. *Vet. Int.* 67.
 To (*ad loundendum*) a piece of woollen cloth, *Ra. Ent.* 203. To (*ad penulatum*) robes, *Vet. Intr.* 3. By blacksmith shoeing horses, &c. 1. *Br.* 108. To carry goods by water, *Co. Ent.* 305. By land, 1. *Br.* 81.
 By taylor retained to use up cloth, finish cloaths, and for goods bought, *The.* 123. *Mo. Ent.* 191. For fitting cloaths, *Pl. Gen.* 262.
 By husband and wife retained as a nurse, for money to be paid weekly, *Han.* 90. *Asbt.* 182.
 By jailor retained by owner of a vessel on a voyage to B. in France and back again for wages at three pounds fifteen shillings, *Re. Ent.* 235.
 By dancing master (*ludi mgistro*) retained to teach defendant's sons, *Bro. R.* 179. 1. *Br.* 94.
 By surgeon retained to cure a wound, 1. *Bro.* 174. 2. *Inst. Cl.* 332. *Han.* 89. *Br. R.* 182. 1. *Br.* 96.
 By a servant retained to serve a year, against administrator of master, *Bro. Vad.* 167.

by taylor retained to make and work up a robe and cloathing, *Pl. Gen.* 262.

by a person retained to plough, and on *mutuatus*, *Tbo.* 111.

On a retainer to carry five carts loads of furniture from one town to another, *Bro.*

R. 172. To carry a load of wood from one house to another, *1. Bro.* 165.

by a servant in husbandry retained to serve for a year, and so from year to year, and as a maid servant in the house when part was paid, *Pl. Gen.* 315.

To feed sheep, *Bro. Vad.* 166. To die wool, 167.

by husband and wife retained to nurse defendant's son for three years, and to take sixpence per week, *Ra. Ent.* 201. *A/b.* 182.

Debt on Bye Laws (2)

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16. Declaration in debt to recover a penalty for exposing flesh to sale in the city of Norwich, contrary to a bye law.

19. Declaration in debt at the suit of the chamberlain of the borough of Hertford, for keeping a shop and selling wares, &c. contrary to a bye law.

14. Plea to debt on a bye law, for not accepting the office

15. of sheriff of London; that the defendant was not a fit and able person. *Replication*, taking issue. Re-

16. joinder.

17. Declaration on a bye law by master, wardens, &c. of company of Glovers in London, against defendant, for not taking upon himself the office of steward for the lord mayor's day.

12. Declaration by the butcher's company against defendant, for keeping open his shop, and exposing meat to sale on a Sunday, contrary to a law made by the company.

8. Declaration in the sheriff's court of London by the chamberlain of the city, against defendant, for six hundred pounds, being his fine for refusing to take upon him the office of sheriff, to which he had been duly elected.

5. Declaration in debt by the chamberlain of the city of Exeter against defendant, for the penalty for breach of a bye law, to wit, for slaughtering two oxen within the walls of the city.

7. Declaration at the suit of the chamberlains of the town of Kingston, for the penalty in a bye law incurred by defendant's refusing the office of aleconner, to which he had been elected according to an ancient custom.

1. Declaration at the suit of the corporation of the town of Kingston, for the penalty in a bye law incurred by defendant exercising a trade within the town, not being an allowed freeman, contrary to a prohibitory custom. 2d Count, on a *mutuatus*. Demurrer to

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the last declaration to the 1st Count, for that the custom being in restraint of trade, and without limits, is void, and the bye law not conformable to it.

204. Declaration at the suit of the plumbers company, for penalties incurred by defendant (a freeman) not paying his quarterage to the company in a bye law.
208. Demurrer (to the last declaration) for not shewing that any quarterly meetings were held, or that defendant had notice of them, or that he did not bring the money to the common hall, or that the master was there to receive it, and declaring for several forfeitures and defaults as a single one.
209. Declaration in debt on bye law, at suit of the Vintner's Company for not attending a court of assistants to take the livery of the company, after having been duly summoned.
215. Declaration in debt at the suit of the Gunmaker's Company of the city of London, for the penalty on a bye law of the said company, for refusing to accept the office of steward, to provide a feast to a list of persons to be invited, and two shillings and sixpence each tendered according to the bye law.

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383. Declaration by Surgeon's Company, to recover five pounds per month from one who practised surgery in the city of W. without having passed examination, and received his grand diploma as required by a bye law of the said company,

Debt on a bye law, for not paying two shillings *per annum* quarterly, the breach need not assign the days of quarterly payment, - - - - -

1. Wilf. Rep. 281

Declaration in debt against Stationer's Company of London, on a bye law against defendant, for refusing to accept the livery of the company after being duly elected, *Ibid.*

2. Mod. Ent. 235. - - - - -

Lill. Ent. 153

Declaration in C. B. in debt on a bye law, by a corporation by prescription, - - - - -

2. Mod. Ent. 225

Declaration in C. B. in debt for the breach of a bye law, -

Declaration in debt by the Butcher's Company against a person who was not a member of the company, for selling meat on a Sunday, contrary to their bye law, -

Ibid. 238

1. H. Bl. Rep. 170

Declaration in debt on bye law, to recover penalty of five pounds for keeping open shop, and exercising trade of a grocer, not being free of the city of Chester, -

3. Burr. 1847

Declaration by the *chamberlain of the city of London* for a forfeiture pursuant to an act of the common council, against a clothworker, for not presenting an apprentice to the master and wardens of the society, *The.* 120.

By the *mayor and burgeses* of T. who held a court in which they made bye laws, and imposed penalties for the forfeiture, *The.* 115.

By

after and warden of Merchant Taylors against an *attorney* of the bench, who being a freeman, refused to be admitted to the livery for the penalty of fifty pounds, *Ent.* 252.

the mayor and burgeses of T. who held their court, made bye laws, and imposed penalties on offenders, for a penalty, *Tbo.* 115.

ward of a manor, and the homage at court baron, who may make *bye laws* for the reservation of a common; and at a court it was ordained, that no inhabitant should put his beasts upon the common before a day certain, under a penalty of ten shillings.

mayor and burgeses having, in which they made bye laws for the good government of the inhabitants, and imposing penalties on all strangers who should bring goods, except cattle, within the borough, under penalty, *Tbo.* 115.

mayor and good men of the borough of G. that the mayor and men aforesaid, common council met, were used to make laws for the good government of the borough and inhabitants, and to impose laws upon persons making default; and that within the borough an ancient officer called a bailiff was annually elected to transact the business of the mayor and men in common council assembled; ordained, that if any person elected to the said office should refuse to serve, that he should forfeit twenty pounds, *2. Ven.* 243.

for breach of a bye law made by a corporation that had divers charters, &c. and one after the making of the bye law, &c. by which bye law was ordained, that if any one of the common council should willingly resign, &c. he should pay immediately to the use of the corporation ten pounds, and defendant had resigned, &c. and had not payed, &c. Plea *nil debet*, and issue. Verdict for plaintiff, *Lut.* 402.

on bye law, that no person not being a freeman, &c. should exercise his art or trade within the borough. Demurrer to declaration, and judgment for defendant that it was bad, *1. Lut.* 562.

Debt on Escape (3)

Declaration in B. R. in debt against the warden of the Fleet prison, for an escape of a prisoner charged in execution in the palace court, and turned over to the Fleet by an *habeas corpus*.

Declaration in debt against the bailiff of the borough of Andover, for the escape of a prisoner in execution under a judgment in the borough court of Andover, in the time of one bailiff, and afterwards assigned over in execution to defendant.

Declaration in debt against sheriffs of London, for the escape of a prisoner in their custody, in execution at the suit of plaintiff.

Pleas to debt on escape of prisoner in execution; 1st, *nil debet*; 2d, fresh suit and recaption; 3d, that prisoner escaped privately, and voluntarily returned before exhibiting, &c. and that defendant hath him still in custody. Part of a plea to an action of debt for an escape against the marshal of the King's Bench prison, that defendant took all possible care, but the

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prisoners confederated, and privately got possession of offensive weapons, with which they assaulted the keepers, and riotously escaped.

231. Declaration in debt against the warden of the Fleet, for suffering a prisoner to escape who had been taken in execution on a judgment, and removed by *habeas*.

233. Declaration in *case* against a sheriff, for an escape on *mesne process*, where plaintiff declares that J. S. was indebted to him; that he sued out a *latitat* against him, whereby he was arrested in a prior sheriff's time, and duly turned over to defendant, who permitted him to escape.

234. Declaration by *executors* against the warden of the Fleet, for the escape of a prisoner committed to his charge, in execution by *habeas corpus*, directed to the warden, the prisoner being in his custody when the *habeas corpus* issued.

244. Bill against the warden of the Fleet in debt, for the negligent escape of a prisoner charged in execution on a judgment in an action in *assumpsit* in R. R. and removed by *habeas corpus* to the Fleet, and there committed under the same execution.

246. Plea 1st, *nil debet*; 2d, that defendant's is a patent office held at the king's will, that it of right ought to be repaid by government, and not by defendant, the prisoner conspired with two other foreigners, and flinging a rope ladder over the wall, suspended from a neighbouring house, thereby effected the escape, without any negligence of defendant, who made fresh pursuit of the parties, but they fled to France; 3d plea, that defendant was patentee at will of the gaol, &c. as in last, that the prison walls were not sufficiently high, whereby prisoner escaped as before, and defendant made fresh pursuit. Replication, issue on *nil debet*. Rejoinder, taking issue on each traverse.

253. Declaration in debt against the sheriff of Middlesex, for suffering a prisoner in execution at plaintiff's suit to go at large after the issuing, and before the return of the writs.

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376. Declaration against the *provost marshal* of Tortola, for escape of a prisoner in execution of two judgments recovered by the plaintiff in the court of C. B. the writs having been executed, escape permitted by the deputy provost marshal.

Plea to an action against the bail for an escape, that E. D in the declaration named, escaped out of defendant's custody against his will, and returned into prison with his knowledge, and is detained there,

- 2. R. Pr. B. R. 52.
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same plea by the warden of the Fleet, -
demurrer to a declaration, for that it does not appear there-
in that there was any record of commitment. Joinder,
demurrer to a like declaration, that it is not alledged there-
in that there is any commitment on the *habeas corpus*, -
declaration by plaintiff, the queen dowager of England,
against the marshal of the B. R. prison, in defendant, for
escape of defendant in custody under an execution on judg-
ment recovered by her in an action of *assumpsit*, -
plea, that the prisoner escaped by force, and that the mar-
shal retook him on fresh pursuit, and yet has him, &c. Re-
plication, that defendant voluntarily permitted him to es-
cape, with a traverse that he escaped by force. General
demurrer to the replication; joinder therein, -
bill in common pleas at the suit of plaintiff in a former ac-
tion, against the warden of the Fleet, for the escape of de-
fendant in former action out of his custody, in execution
at the suit of plaintiff, suit in B. R. after he had been com-
mitted to the B. R. prison on the recovery in such action,
and removed himself to the Fleet by *habeas corpus cum*
causa. General demurrer to the bill; joinder therein, and
judgment for the plaintiff, -
declaration against the marshal of the King's Bench prison,
for the escape of prisoner out of his custody, under a judg-
ment in *assumpsit* obtained in the common pleas against the
prisoner, who was afterwards removed by *habeas corpus*
into B. R. and there charged in execution at plaintiffs
fact, -
debt against sheriff, for an escape of the defendant in a for-
mer action at the suit of plaintiff, whom the sheriff had ta-
ken under an *alias ca. sa*, -
declaration in C. B. in debt, for an escape by the admini-
stratrix *testamento annexo durante minoritate* against the chief
bailiff of the liberty of P. profert of letters of administra-
tor. Plea, that on the twenty-third of January, before the
supposed escape, an *habeas corpus* issued, by virtue of
which writ he had the body in court at the day of the re-
turn, and that the prisoner was committed to the Fleet.
Replication, protesting that the body was not deliver-
ed to defendant before the escape, that *habeas corpus* issued
on twenty-eighth of November, that after return thereof
he took the said R. D. by colour of that writ, carried him
to Westminster Feb. 6. and the same day by fraud, &c. the
habeas corpus mentioned in the plea was sued out and deli-
vered to the defendant, and not before, and that by virtue
of the last writ R. D. was committed to the Fleet, traver-
sing that he was taken out of prison, and conveyed to
Westminster by the *habeas corpus* in the defendant's plea.
Special demurrer, and shewing for cause that the traverse
is repugnant, and doth traverse a matter that is not tra-
verseable, -

2. R. Pr. B. R. 53. 92

Ibid. 61, 62

Ibid. 94

Lill. Ent. 151

Ibid. 153

Ibid. 158

Ibid. 187

R. Pr. C. B. 463

2. Mod. Ent. 205 to 210
Decla-



ast the late *sheriff* for escape of one taken in execution on a *capias satisfaciendum* judgment in C. B. 1. *Bro.* 157.

n *administrator*, setting out all the proceedings, *Pl. Gen.* 228.

ast the *marshal*, for the escape of a prisoner in execution out of B. R. *Vid.* 197. *Dec.* 192. 198. 202. *Cl. Man.* 283. By an *executor*, 2. *Inst. Cl.* 337. On a judgment in debt, *7 bam.* 122. 150. *Rob.* 223. Against the *deputy marshal*, *Bro.* 175.

judgment in debt in B. R. and by *habeas corpus* directed to the marshal, re-nable in chancery committed to the Fleet, *Lev. Ent.* 56.

ast the marshal, on a judgment in *debt* in C. B. and prisoner committed to the set in execution, and removed to B. R. *Rob. Ent.* 106. *Vid.* 181, 193. Against *rden* of the Fleet, *Win. Ent.* 171. 3. *Lev. Rep.* 390.

attorney against marshal, for the escape of a prisoner committed in execution a judgment in debt, 2. *Bro.* 59.

ast the late *sheriff*, for the escape of a prisoner taken by him on a *testa- capias satisfaciendum* in B. R. 1. *San.* 34. *Rob. Ent.* 300. By executor, on judgment in C. B. 2. *Bro.* 126. *Re. Dec.* 207. On a *capias satisfaciendum* in tref- s and assault on judgment by *non sum informatus* in B. R. *Rob. Ent.* 305. *Dec.* 196. On a *non omittas capias satisfaciendum* escape, 2. *San.* 98.

ast the late *sheriff* of the city of C. for escape in execution on judgment recover- in county court, *Han.* 83. Against the late *sheriff* of London, on a judgment *debt* in Guildhall, *Dyer*, 66. *Ro. Ent.* 298. And against the present *sheriff*, *Man.* 292. 297.

ast one *sheriff* of London after death of the other, judgment in *ca. sa.* in the *ildhall*, 1. *Bro.* 178.

ast *bailiff* of a liberty, for escape after judgment in debt after verdict, 2. *Bro.* 12. o. 112.

Fines and Amerciaments. (4)

Declaration for amerciamment in a court leet, not at- tending to take the office of constable, after being duly summoned.

Declaration for amerciamment in a court leet, not attend- ing to serve as a juror, after being duly summoned.

Declaration in debt in B. R. for an amerciamment at a court baron, against the owner of an estate within the manor enfranchised by one of the plaintiff's an- cestors, receiving only suit at court, &c. 1st Count states plaintiff to be tenant for life of the manor, and defendant owner of an estate within it, held by ser- vice of doing suit at court, which he neglected to do after notice; the jury presented him and amerced him two shillings and sixpence. 2d Count states a custom for the jury to present and amerce. 4th Count, for nine pounds twelve shilling and sixpence, residue, &c.; a *mutuatus*.

Declaration for a customary fine, payable on the de- fendant's admission to copyhold premises, upon a surrender.

Declaration in the borough court at the suit of the

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mayor, commonalty, and citizens of London, for an amerciament in a court leet, on a presentment for a nuisance,

268. Declaration in the borough court, at the suit of the mayor, &c. against defendant, for not attending to take upon him the office of constable, to which he had been presented,

269. Declaration in debt, against defendant for non-payment of an amerciament offered at six pounds, upon a presentment of the jury of the court leet, at an adjourned court, according to the custom, against defendant, who was a grocer, for having false weights in his possession.

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392. Declaration for several amerciaments in a court baron.

Declaration in debt by the lord of an hundred, who an infant, by his next friend prescribes for a court and view of frankpledge against the defendant, tithing man of a tithing within the hundred, who ought to have been sworn in at the court, and to have paid nine shillings for chief silver to the lord, but refused,

Mor. Pr. 505

Declaration for a fine at the duke of Bedford's court leet, against a baker, presented at the court leet for bread short of weight, &c.

Ibid. 570

Declaration for the fees of a steward on admission to a copyhold,

Ibid. 577

Declaration in the court of the borough of Southwark, at the suit of the city of London, for an amerciament at a court leet for the borough of Southwark, for refusing to appear, defendant being duly summoned to take the oath of office of coustable, to which he was elected,

Ibid. 578

Declaration in debt against lord of a manor, against the heir of his tenant, for a fine on his death.

Lill. Ent. 146

Declaration in C.B. in debt for an amerciament for a court leet,

2. Mod. Ent. 201

By the mayor, commonalty, and citizens of the city of London, against a foreigner for the custom of scavage, which were granted by letters patent, Edw. 4. and confirmed by parliament, 23. Hen. 8.

Ibid. 154

Declaration in debt for a fine under a bye law, for following a trade within the borough, not being free of any guild. States Devizes to be an ancient borough, and immemorially corporate body; king Charles by letters patent created the corporation, and the mayor, recorder, or his deputy, and the major part of the capital burgesses, to make bye laws, to impose pains and fines; and that they might levy them guilds of artificers and tradesmen burgesses; immemorial custom, that no one not admitted a freeman of one of the guilds should sell, &c. Third September, 14. Geo. 2. an assembly before mayor, &c. was had, who then made a reasonable bye law, that no person, not free of any guild,

should

ld use a trade, &c. within the borough; remedy by
ess or action of debt against any that would sue by
published. Defendant had notice, but defendant
notice, contrary to the custom and bye law, kept a
and used the trade of cordwainer.

Plead. Aff. 385

ation by the lord of a manor against his customary tenant for a fine on his ad-
on to copyhold lands, *Vid.* 176.

ter, warden, and company of shipwrights of R. for a fine imposed on de-
ant, *Ro. Ent.* 204.

l of a manor, defendant resident, making default at the leet, was amerced
at two courts was amerced, 1. *Bro.* 152. Constable resident amerced for his
ilt, *Ibid.* 154. *Re. Dec.* 178.

l of a manor, having a leet and court baron, and by custom the tenants,
ents, and inhabitants within the manor ought to do suit at plaintiff's mill,
adant was amerced for placing timber in the highway, and at the court was
ced for grinding his corn at another mill, 1. *Bro.* 167.

ant amerced at the leet for an affray, *Ibid.* 171.

amerciament at two several courts leet by default, and at another court also
nclosing lands near the common highway, to the nuisance of the inhabitants,
Ro. 169.

' of a manor, who held a leet for all the inhabitants, and defendant refused
: sworn, and disturbed the court, for which a fine was imposed on him,
Ro. 168. *Ass.* 180.

rd of a manor held a court baron, and used to punish the tenants for their
ilts in the same. Defendant erected a wall in the highway, and was amere-
1. *Bro.* 83. At a court leet, for digging clay pits in the highway, *Lev.*
62.

d of a manor held a leet, and defendant was amerced for default, and it
by the jury ordered that he should remove an inmate kept by him, under a
ty of forty shillings, which he forfeited; and forfeiture for not mending
itches, *Tho.* 113.

F. seised of a barony had a leet, and the jury presented that defendant broke
non of pasture, and thereout took an estray seised to the use of the lord of
arony, for which was imposed upon him a fine of forty shillings, *Tho.* 119.
Dec. 185. *Mo. Intr.* 229.

d of a hundred, had a leet, demised to plaintiff for years, defendant, an
itant, not appearing, was amerced for his default, *Tho.* 132.

, seised of a manor, held court baron, defendant, being tenant, encroach-
on the waste of the lord in execution of a hedge, by which it was ordained
e homage, that defendant should remove the hedge, under a penalty of
illings, which defendant forfeited, *Ro. Ent.* 200.

a copyhold tenant; first, on an amerciament for not appearing; second,
a penalty for breach of the bye laws; third, on an amerciament for keep-
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s on admission to customary tenements, *Clif.* 244.

ite, and for an amerciament on a leet, 1. *Bro.* 269.

, seised of a manor, had a leet, defendant was amerced for his default;
t another court was amerced for *canabe* put into running water, *Ass.* 176.

, seised of a manor, held a leet; custom in the manor that capital pledges
it defaults in certain articles; defendant, a capital pledge, was sworn, and
ted before verdict returned, *Ra. Ent.* 151. *Vel. Int.* 63.

1 debt for a fine on alienation of a copyhold, 1. *Lut.* 597.

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Debt for <i>rent</i> of a house on a <i>parol demise</i> for so long as both parties should please; 1st Count, for a year's rent, payable half yearly; 2d Count, for a year and a quarter's rent, payable quarterly,	Pl. Aff. 345
Declaration in debt on a <i>parol demise</i> for rent, against a tenant from year to year,	<i>Ibid.</i> 349
Declaration in B. R. in debt for <i>rent</i> ; 1st Count, on a demise for three years; 2d Count, for one year,	<i>Ibid.</i> 367
Declaration in B. R. in debt, brought by plaintiff, as executor, against defendant, for <i>goods sold</i> by the testator,	2. Mod. Ent. 177
Declaration in debt on a <i>mutuatus</i> , by an executor, and the husband and wife, co-executrix of an executor of the first testator,	<i>Ibid.</i> 177
Declaration in C. B. in debt for an attorney's fees,	2. Mod. Ent. 247
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Rent. Parol Demise. (See Leases, *post*.)

For rent of a messuage on a *parol demise* for years not expired, rendering rents *Bro. R.* 169. *Mo. Intr.* 166. where the lease was expired, *Re. Dec.* 212.

Of chambers demised from year to year at the will of plaintiff and defendant, 1. *San.* 202. *Br. R.* 208. Demise to hold at the will of the plaintiff, *Pl. Gen.* 251. *Re. Dec.* 217. To hold at the will of plaintiff and defendant tenements for two years, *Han.* 76. *Mo. Intr.* 174. 2. *Ven.* 151. For rent payable monthly, 2. *Ven.* 176. Weekly, *Re. Dec.* and on several *habendums*, and for term determinable on a contingency.

For rent payable on two feast days, 1. *Br.* 183. *Vid.* 162. *Bro. R.* 226. At four feast days, 1. *San.* 202. *Wi. Entr.* 125. *Bro. R.* 208. 330. 2. *Ven.* 177. 250.

Rent of a messuage for five years, and rent arrear for one year, *Bro. Vad.* 186. 1. *Bro.* 161. *Mo. Entr.* 173. *Cl. Man.* 212. For one year and an half, *Vid.* 152. For half a year, 1. *San.* 1. *Clif.* 256. *Mo. Intr.* 165. By executor, 2. *Inst. Cl.* 232.

Of tenements demised for a year, and from year to year, at the will of plaintiff and defendant, and defendant held the tenements for four years, and rent arrear for the whole term, 2. *Br.* 72. 1. *San.* 202. For a year, *Cl. Man.* 211. For two years, *Han.* 91. Of a rectory for two years, *Tho.* 108. Messuage and lands for three years, *Ibid.* 117. *Pl. Gen.* 252. Lands for half a year, *Tho.* 152. For three quarters, *Bro. R.* 208. 1. *San.* 202. For nineteen months, 2. *Ven.* 176.

By administrator of a vicar, for rent prescribed to be due by defendant, proprietor of the rectory, *Bro. R.* 169.

Against tenant at will upon a lease *parol*, for the rent of five quarters of wheat, *Bro. Met.* 180.

Against an attorney, for rent, *Bro. R.* 208.

defendant; as also the fixtures, &c. to be fairly appraised, and also the stock of liquors; and the plaintiffs were to clear the house of all taxes, and to pay half the expences of the assignment of the lease; the goods were valued, &c. &c. but the defendant refused to perform, &c.

- . Declaration for the penalty in articles of agreement to accept and pay for plaintiff's rabbits at a certain price, on delivery by him at the defendant's house at certain times during the season, and to cure and dry the skins; breach, that plaintiff delivered, but defendant did not pay, &c. Plea, performance of articles.
- . Declaration by the plaintiff, who had agreed to serve the defendant on board a ship for so much money as was usually allowed by his majesty's consul at L. no consul being appointed, the defendant refuses to make the plaintiff any satisfaction for his service.
- . Declaration in debt for the penalty on non-performance of articles of agreement. Plea tender, that the expences and proceedings did not amount to fourteen pounds, but only three pounds, which defendant offered to plaintiff. Replication, that the expences amounted to more, to wit, fourteen pounds.
- . Declaration in debt for a penalty for the non-performance of articles of agreement in not paying the purchase money for an allotment of land appertaining to three messuages of plaintiff's, which plaintiff by the articles sold to defendant. Plea, 1st, that he did pay. &c.; 2d, that plaintiff had nothing in the three messuages that could enable him to convey to defendant the allotment. Replication; rejoinder; demurrer.
- . Declaration in debt upon articles of agreement for the sale of brewing and dairy utensils, for crops of corn and grass, agreeable to a valuation.
- . Declaration in debt for the penalty of breach of agreement for the sale of freehold premises, in not producing a complete title.
- . Declaration, defendant and his wife having disagreed, defendant entered into an agreement, whereby he covenanted that he would behave peaceably towards her and let her have the managing of his business for their mutual advantage, which he did for some time, and then refused to let her have any thing to do with it.
- . Declaration by original in B. R. against a house-carpenter in debt, for the penalty in sealed articles of agreement, for not doing his part of the work in altering a house, whereby the other workmen were delayed in theirs, and plaintiff was put to expence

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of hiring lodgings, and injured in business of keeping a boarding-school.

- 314. Declaration in debt for a penalty contained in articles of co-partnership between two attorneys, by which it was stipulated, that on a dissolution of the co-partnership, defendant could not carry on business within twenty-five miles.
- 316. Declaration in debt in the Kingston court for a school-master, on a special agreement to teach defendant's daughter for a certain sum per quarter, averring that he taught her a part of the quarter, and was ready, and tendered to continue his instructions, but defendant dispensed with it, and took his daughter away. Other Counts for work and labour, and money paid, &c. in debt.
- 317. Declaration for a penalty contained in articles of agreement, whereby defendant, who was a baker, agreed, upon assignment of his premises to plaintiff, not to intermeddle with his business and customers in that parish.
- 319. Declaration in debt for the penalty of breach of agreement for the sale of freehold premises, in not producing a complete title.
- 323. Declaration in debt for the penalty of non-performance of articles of agreement, in not paying the purchase money of premises bought by defendant of plaintiff, which was to be paid for part in money and part by an estate which defendant was to convey to plaintiff.
- 326. Declaration, defendant and his wife having agreed to live separate from each other, he was to pay her a certain sum of money yearly for her support. This action is brought by a third person, who was chosen by the parties to recover the money agreed to be paid by the defendant to his wife.
- 327. Declaration in debt at the suit of an executrix, for the arrears of an annuity.
- 331. Declaration on an agreement, that defendant would take of plaintiff all his stock of a farm, and all the crops that were growing, at a fair valuation by two indifferent people; the things were valued, and the defendant refused to pay the money.
- 332. Declaration in debt on sealed articles of agreement to pay the taxed costs of an action for defamation, brought by plaintiff against defendant, and of advertising an acknowledgment by defendant in consideration of plaintiff's discontinuing his suit; and common Counts in debt; and for money had and received, laid out, &c.; and an account stated.

Declaration on articles of apprenticeship, by the master against the father of the apprentice, for the absenting him-

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self from plaintiff's service. Plea, that plaintiff was and is incapable of teaching and instructing the apprentice in the arts of a writing-master and accountant, for which reason he absented himself. Replication, that plaintiff did teach the apprentice till his absenting himself, and traverses his incapacity,

- Mor. Pr. 550

Declaration for the penalty of a deed-poll (made in consideration of a hundred pounds for the payment of the like sum out of plaintiff's wages as purser of a man of war), no wages being due to plaintiff,

- Ibid. 551

- Ibid. 553

Declaration for an annuity granted by defendant to plaintiff in consideration of faithful service for her; defendant craves oyer of the deed whereby the defendant covenants to pay annuity if the same be personally demanded, and pleads that the plaintiff did not demand the annuity.

Ibid. 554

Upon demurrer thereto judgment was for the plaintiff,

1. Wils. Rep. 201

non est factum to a bill or indenture,

1. R. Pr. 146

Declaration in debt for rent upon articles of agreement, against an administratrix, accrued in life of intestate, plea of performance of condition of debt, for a penalty.

2. R. Pr. C. P. 252

Replication, shewing a particular breach in not paying a sum of money. Demurrer; joinder; and continuance,

Lill. Ent. 115

Declaration in debt for one hundred pounds penalty upon articles of agreement, that the plaintiff should make to the defendant a good conveyance of certain lands in consideration of five hundred and three pounds, to be paid by him to plaintiff at the house of sir F. C.; both parties bind themselves in one hundred pounds for the true performance; averment, that the plaintiff and one R. M. who was possessed of the residue of two terms of years, sealed indentures of lease and release of the premises, and delivered the same to the use of the defendant, who refused to agree to or accept the same, and hath not paid the said five hundred and three pounds to plaintiff, according to the form of the said articles, by which an action hath accrued to the said plaintiff, to demand the said one hundred pounds, &c.

1. Ld. Raym. 400

Declaration in debt for the penalty on articles of agreement for the purchase of a farm. Plea, that the plaintiff was not capable of making a good title to the defendant; and that after making agreement, &c. plaintiff cut down timber, whereby plaintiff disabled himself from performing his agreement; for which reason defendant declined to execute on his part. Demurrer; joinder,

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Declaration in B. R. on an action of debt for an annuity granted by defendant to his wife before marriage, plea to debt for penalty on articles of agreement, that plaintiff did not convey to defendant the premises mentioned in the agreement, and that plaintiff had no estate in the premises,

2. Mod. Ent. 244

4. T. R. 761

- By the rector and scholars of a college for money due for *commons*, *Tbo.* 124.
 By the *principal of Clifford's Inn*, for *commons* and pensions due, *Br. R.* 219.
 For lodging let to defendant at the will of plaintiff, and for board of defendant's son as long as plaintiff should please for forty shillings *per annum*, *Pl. Gen.* 316.
 For medicines and board with plaintiff, under whose care defendant (being in ill health), had put himself, 1. *Bro.* 166. *Ra. Ent.* 187. 153. *Vet. Int.* 126.
 Against an *executor*, for the board of testator's sister, 2. *Inst. Cl.* 330.
 For depasturing defendant's horse from year to year, to be paid yearly ten shillings, horse was agiled for five years, 1. *Bro.* 165. *Pl. Gen.* 319.
 On an agreement to pay twenty pounds on request to plaintiff, and that plaintiff should marry defendant's daughter, *Mo. Ent.* 150. *Ra. Ent.* 178.
 On a *concessit solvere* for the marriage portion of the defendant's daughter to the plaintiff, 2. *Inst. Cl.* 328. *Ra. Ent.* 178. *Wi. Ent.* 129.
 For wares purchased, *Co. Entr.* 125. *Ra. Ent.* 121. By *executor*, *Cl. Man.* 276.
 For sale of a term for years in house and lands for ten pounds, to be paid at three payments, 1. *Bro.* 160.
 For sheep purchased for fifty pounds, to be paid for in two payments, *Bro.* 160.
 For horse to be paid for on the day of defendant's marriage, 1. *Bro.* 166.
 For pieces of cloth bought by the abbey and commonalty against the abbey, *Pl. Gen.* 319. *Ra. Ent.* 204. *Vet. Int.* 22.
Sar emisset for part, 1. *Bro.* 151. 165. 187. *Ra. Entr.* 176. *Tbo.* 123. *Cl. Man.* 269.
 For the custody of lands, and the heir, and the marriage of the heir, sold for one hundred and eight pounds, to be paid for on request, 1. *Bro.* 177.
 For money for the sale of a gold ring for ten pounds, to be paid for on the day of marriage or death, *Mo. Int.* 152.
 For a gelding sold for ten pounds, to be paid for on request, *Mo. Int.* 163. Wares sold, and part paid, *Pl. Gen.* 280. Hay to be paid for on request, 324.
 By *administrator jure emisset* for part, *Mo. Intr.* 170. For three cows sold, *Bro. Vad.* 163. For seven bushels of wheat, 164. By *executor jure emisset* of woollen cloth, 2. *Inst. Cl.* 277. 1. *Inst. Cl.* 319.
 For money to be paid on request, *Tbo.* 117. *Han.* 86. *Ra. Ent.* 152. *Wilk.* 271. *Mo. Intr.* 164. *Bro. Vad.* 162. *Cl. Man.* 275. 1. *Inst. Cl.* 320.
 On *mutuatus* for part, *Ra. Ent.* 152. 177. *Tbo.* 107. 111. 115. 1. *Bro.* 154. 2. *Bro.* 83. *Wi. Ent.* 191. *Ra. Ent.* 122. 200. *Han.* 90. 92. *Mo. Intr.* 170. On several *mutuatus*, *Bro. Vad.* 162.
 For money due on account, *Mo. Intr.* 164. *Bro. Vad.* 162. By an attorney on a *computasset*, *Mo. Intr.* 169. *Bro. Vad.* 163. 173. 2. *Inst. Cl.* 346. On *infimal computasset*, *Bro. Vad.* 162. 163. 1. *Inst. Cl.* 321. By *executrix* and her husband on an account between defendant and testator, *Bro. Vad.* 163.
 For money received of plaintiff by defendant to account for, *Vet. Ent.* 21. *Ra. Ent.* 149, 150. *Ra. Ent.* 120. 1. *Bro.* 160. By *executor*, *Pl. Gen.* 272. *Ra. Ent.* 149. *Vet. Ent.* 49. On account of arrears of rent, 3. *Br.* 176. *Ra. Ent.* 120. On account before auditors, *Han.* 91. 1. *Bro.* 150. *Pl. Gen.* 250. Against *administrator*, *Mo. Intr.* 155. 165. By an attorney for an account, *Mo. Intr.* 169. 3. *Br.* 176. *Ash.* 185. For surplage of an account before auditors, 1. *Bro.* 150. *Ra. Ent.* 149, 150. *Vet. Ent.* 41. *Upper Bench. Prec.* 62.
 On *emisset* and detinue, 1. *Bro.* 187. On *demise* and *emisset*, *Ra. Ent.* 176. On *demise* and account, *Clif.* 293.
 On account, and *mutuatus*, *Ra. Ent.* 121. *Han.* 92. On account, *mutuatus*, and detinue, *Br. R.* 259. On retainer, and *mutuatus*, *Tbo.* 111. 131. *Han.* 90. *Br. R.* 172. 176. 179. On debt and detinue, *Br. R.* 186. *Mo. Intr.* 149. On *emisset* and *mutuatus* by *administrator*, *Mo. Intr.* 170.
 By an earl against the late sheriff, for money granted him on his creation by the king, to be paid to him by the sheriff, *Vet. Intr.* 226.

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1. Declaration in debt upon an award made by the clerk of the *nisi prius*, in pursuance of a rule of reference made at the trial after the jury sworn, one being withdrawn by consent.
14. Declaration in debt upon an award agreeable to an order of reference made in court, upon the withdrawing of a juror, where one of the arbitrators refused to act.
17. Debt on an award by umpirage, against defendant and his surety, who entered into a bond to abide by his determination.
20. Declaration on an award made pursuant to a rule of court on a motion for a new trial, whereby the defendant was ordered by the arbitrators to give up all the deeds, &c. and pay all costs, four times the amount of the costs of the new trial, and of the replevin suit.
4. Declaration in debt against defendant, for non-payment of money awarded by an umpire after submission to arbitration, by rule made at *nisi prius* at the assizes.

Declaration in debt on award by an umpire, after arbitrator

could not agree, - - - 2. Mod. Ent. 219. 2. Saund. 127

award without an umpire, - - - 2. Mod. Ent. 243

Declaration by *administrator* on award made in the lifetime of testator, *Re. Dec.* 186.

baron and feme wife whilst sole, and defendants submitted themselves to stand to the award of two arbitrators, as to all matters in litigation; award that defendant should pay to the wife, whilst sole, on a day certain, eighteen pounds in satisfaction of her portion, and that the wife, on the receipt thereof, should release to defendant, *Tho.* 107. 3. *Br.* 149. *Ash.* 187.

Plaintiff and defendant submitted themselves to the award of two arbitrators concerning subtraction of tithes, and award that defendant should pay plaintiff twenty pounds in full satisfaction of all demands whatsoever, and no release, *Tho.* 116.

Submission of all trespasses; award that defendant should pay plaintiff ten pounds, and that plaintiff and defendant should give each to the other a general release, *Han.* 69 77. 89. *Inst. Cl.* 323. *Ra. Ent.* 153. *Co. Ent.* 159. *Ash.* 200.

Submission of all demands, &c.; award that defendant should pay plaintiff thirteen pounds in full satisfaction of all demands, no release, *Han.* 91.

Submission to an arbitrator by parol; award that defendant should pay plaintiff twenty pounds, no release, *Han.* 91. By *administrator*, *Re. Dec.* 186.

Submission to the award of two arbitrators, to be made before the day in the writing mentioned, of all controversies, &c. and if they should not agree to the arbitration, an umpire to be chosen by the arbitrators. Umpirage made, that defendant should pay to plaintiff fifteen pounds in full of all debts, &c. 2. *San.* 61.

Re. Dec. 398. 2. *Mo. Intr.* 199. Similar submission, and if the arbitrators could not make their award, then to R. the umpire who awarded that defendant should pay plaintiff nine pounds on a day certain, and upon payment thereof plaintiff and defendant should give each to the other a general acquittance. Demurrer,

1. *San.* 127. Submission of all trespasses; award that defendant should pay plaintiff

PRECEDENTS IN
BOOKS OF PRACTICE,
REPORTERS, &c.

Declaration in debt on bond ; variety of precedents, 2. Mod.

Ent. 177. - - - - - 1. R. Pr. B. R. 131

Declaration on bond ; plea, *non est factum*, issue, - - - 2. R. Pr. B. R. 234

Declaration in C. B. for payment of money, - - - 1. R. Pr. C. B. 117

Debt on bond by surviving obligees, - - - *Ibid.* 452

Debt on bond in C. B. *proferri in curia*, - - - 2. Mod. Ent. 178

Debt on bond ; plea, that defendant being bound with T. by agreement between T. and the plaintiff, the said T. with one R. delivered another obligation to plaintiff, secure the payment of money in discharge of the bond in which defendant was bound, and plaintiff accepted, demurrer, 2. Mo. Ent. 188

Declaration on bond to the mayor of a borough, *Wi. Ent.* 201. On a bond to the governor of an hospital, *Ibid.* 328.

By an attorney, *Wi. Ent.* 333. *Mo. Int.* 152. 158. 2. *Bro.* 84. *Bro. Met.* 155.

Against an attorney, *Wi. Ent.* 173. *Ro. Ent.* 188. *Mo. Intr.* 152. 158. Against a serjeant at law, *Mo. Int.* 158. Against filazer of C. B. *Bro. R.* 219.

For payment of money on the birth of plaintiff's first son, *Tbo.* 115.

On bond, after a free pardon allowed defendant, with reversal of outlawry, and appearance of defendant stated in the declaration, 2. *Bro.* 84.

Debt on seven bonds, *Br. R.* 228. On twelve bonds, *Re. Dec.* 234. On bond first delivered at a distant day after the date thereof, *Pl. Gen.* 247. On bond for twenty marks, *Ibid.* 288.

On a bond made to J. and W. where one is outlawed for felony, *Ra. Ent.* 198. *Vet. Intr.* 194.

Against the late prior, on bond, who had withdrawn himself from the priory, *Ra. Ent.* 179. *Vet. Int.* 42. 41. 109.

On bond made payable on request, *Co. Ent.* 126. 168. 244. 8. *Co.* 80. *March,* 272. 281.

On a bond in the old form against three bound separately, *Dyer*, 82.

Debt on bond and declaration, wants the words "by his writing-obligatory;" defendant prays oyer, and pleads *payment*. Judgment for plaintiff, 2. *Lut.* 1667.

Debt on bond against Sir Robert Clarke, who bound himself by name of John Clarke, knight ; plea, *non est factum* ; issue ; special verdict ; judgment for plaintiff in B. R. but reversed in exchequer, 1. *Lut.* 894.

Declaration against an attorney on bond, *Ra. Ent.* 178. On two bonds, 3. *Br.* 115.

By baron and feme on bond made to feme whilst sole, *Asht.* 181.

By baron and feme against baron and feme, on a bond made by the wife whilst sole, *Ra. Ent.* 179.

By baron and feme executrix, on a bond made to feme covert, to which the baron agreed, *Asht.* 210.

On a bond to plaintiff and feme covert, where the husband having notice, *disagreed*, *Asht.* 218.

By two lately married after a divorce for cause of pre-contract on a bond made to them, *Co. Ent.* 121.

Debt against corporation on bond, by the old name of mayor, magistrates, and burgesses, &c. but since their charter their name is changed to mayor, aldermen, and burgesses, &c. they made the bond in their new name, the *then* mayor being only mayor *de facto*, but with an *alias dictus* of the new name, and the count is, that the mayor, masters, and burgesses, by the name of mayor, aldermen, and burgesses, bind themselves. Plea, *non est factum*, and issue, and special verdict ; bond

bond held good, but the action is not well laid for it ought to have been brought against them by their new name, 1. *Lut.* 508.

Debt on *bond* for forty pounds made to plaintiffs, bailiffs of a borough of D. with condition of B. *to appear* at the next sessions of the peace of the borough of D ; Plea, that he was *imprisoned by covin*, and so made the bond. Replication that defendant was indicted at the quarter sessions for several trespasses and misdemeanors, and among others, for brewing ten barrels of strong beer, and selling them, without giving notice to the officer of the excise, and that he was taken by *capias*, &c. and on that he entered into the said bond, which was made for his appearance at the next sessions, &c. and not for the *aforesaid* conviction, and this they pray, &c. Demurrer. Judgment for plaintiff, that the bond was good, as it was not taken by way of recognizance in the name of the king, 1. *Lut.* 497.

Debt on bond given by tenant at will to his lessor, with condition of giving notice to lessor of all declarations, &c. delivered to tenant, or others, with his privacy, to pay his rent, not to attorn tenant to any one, not to suffer judgment in ejectment, &c. and on reasonable request to deliver possession to lessor of all lands which he then held or should *hold*, and in the mean time to keep the ways in repair. Plea, performance of several parts of condition specially, and general performance of the residue. Demurrer special ; judgment for defendant, 1. *Lut.* 590.

Debt on bond to pay plaintiff ten shillings *per pound* for every twenty shillings, which plaintiff, by sufficient proof, should make appear to be due to him by J. K. Plea, that plaintiff did not make to appear to be due to him any sum. Replication, that before day of payment, plaintiff and K. accounted together, and K. was found in arrear, and confessed to be indebted to him in three hundred and ten pounds. Judgment on demurrer for plaintiff, 1. *Lut.* 663.

Declaration against an *attorney* on bond, *Wi. Ent.* 173. 333. 334. *Mo. Intr.* 152. 153. 158. 1. *Bro.* 62. *Mo. Intr.* 169. *Ro. Ent.* 188. *Bro. R.* 2. 1. *Bro. Vad.* 205.

Debt on bond bearing date 5. Mar. 5. Jac. 2. on condition of paying to H. F. his own attorney, all costs of the suit the said H. F. should charge plaintiff, which he did not pay to the said H. F. Plea, that he did pay, &c. according to the terms of the condition. Replication, that before the original, 10. Mar. 4. Jac. 2. the said H. F. charged the plaintiff with four pounds sixteen shillings, and that defendant having notice of it, did not pay the sum to plaintiff. Rejoinder, that the said attorney did not deliver to him any bill of costs. Judgment for plaintiff on demurrer, 1. *Lut.* 419.

Debt on bond for ninety pounds and eighty pounds on over, the bond was for ninety pounds and eight hundred pounds. Plea, variance between the count and bond. Replication, that plaintiff prayed condition should be entered *in hac verba*, and the condition was for payment of four hundred and ninety pounds, and for that plaintiff demurs. Judgment for plaintiff, 1. *Lut.* 423.

Debt on bond for twenty-five pounds, with a condition subtilly framed to avoid the statute of usury. Plea, that after the day of payment of fourteen pounds, that was to be paid pursuant to the condition, he paid plaintiff eight pounds seventeen shillings and sixpence, and that he and one T. S. had executed a bond to plaintiff for twenty pounds, with condition to pay plaintiff ten pounds at the day, in the condition, in full *satisfaction* and discharge of the first bond, and of the costs due on that which plaintiff accepted, &c. Judgment for plaintiff on demurrer, 1. *Lut.* 464.

Declaration by the bishop and his commissary on a bond, *Br. R.* 220.

Declaration against an *attorney* on his bond, *Ra. Entr.* 188. *Mo. Intr.* 152. *Wi. Ent.* 173. on two bonds.

Debt on an attorney on bond, which recited, that a free pardon had been granted to defendant,

- fendant, with reversal of outlawry, and defendant's appearance thereon, 2. *Brv.* 84.
 By the *chamberlain* of the city of London, on a bond to another chamberlain, and stating the city custom, *Tbo.* 134.
 Against the *master of a company*, on bond under their common seal, *Mo. Intr.* 161. *Ra. Ent.* 250.
 By the governors of Bridewell Hospital on bond, *Wi. Ent.* 328. By an *attorney*, on his bond, *Wi. Ent.* 333, 334. Against an *attorney*.
 By an *attorney* on bond, *Wi. Ent.* 333, 334. Against an *attorney*, *Bro. Met.* 152, 153. *Mo. Intr.* 158. 1. *Bro.* 62. *Cl. Man.* 286. *Cl. Aff.* 370. 411. 2. *Inst. Cl.* 345, 346, 347. *Clif.* 241.
 Against a *serjeant at law* by bill on bond, *Ra. Ent.* 178. *Mo. Intr.* 158. Against a *filazer* of C. B. on bond, *Br. R.* 219. Against the *clerk* of the prothonotary, on bond and *forejudger*, *Bro. Met.* 146.
 Against sheriff, who levied on a liberate, and did not render to plaintiff the money on the return, *Wi. Ent.* 304.
 By churchwarden, on bond, 2. *San.* 80.
 By the king's coroner and attorney, on bond of *felo de se*, 1. *San.* 269. By sheriff, on bond, *Ibid.* 288.
 By bailiff of a liberty, on bond, *Ibid.* 14.
 By the marshal of the marshalsea, on bond, *Ibid.* 156.
 By surviving obligee, *Tbo.* 115. *Mo. Ent.* 158. *Cl. Man.* 282.
 By *baron and feme*, for money recovered in the sheriff's court by the wife whilst sole, 2. *Bro.* 72.
 For money to be paid on a day certain, *Mo. Intr.* 160. On *several* days, *Br. R.* 221. *Ra. Ent.* 160. 180. *Co. Ent.* 130. 137. 2. *Co.* 1. *Plow* 60. On request, *Han.* 86. 2. *Br.* 63. 66. *Mo. Intr.* 163. *Cl. Man.* 200. *Vid.* 183. 2. *Vent.* 80. 110. 219. 230. 239. Against an *attorney*, 2. *Br.* 62. *Ro.* 188. *Lev. Entr.* 65. *Bro. Vad.* 150. 175. *Cl. Aff.* 423. 2. *Cl. Inst.* 307. 1. *Inst. Cl.* 106.
 On bond in the name of two, where one of them did not seal, 1. *Bro.* 165. *Ash.* 200.
 By survivor on bond made to *two* others, 1. *Bro.* 163. 175. *Tbo.* 115. *Mo. Intr.* 158. 2. *Mod. Ent.* 232. *Cl. Man.* 254. 282. 2. *Inst. Cl.* 317. On bond to three others, *Bro. R.* 194. 3. *Br.* 120. By survivor.
 On bond, where two are jointly bound, one of whom is outlawed, and the other appeared, 1. *Bro. R.* 165. *Br. R.* 197. *Tbo.* 114.
 On bond to *baron and feme*, made by wife whilst sole, 2. *Bro.* 63. *Bro. R.* 255. *Re. Dec.* 229.
 By *baron and feme* against another, *Mo. Int.* 171. *Bro. Vad.* 154. 178. By *baron*, on bond made to *feme only*, *Re. Dec.* 188.
 On bond to be paid on request, when part had been satisfied, 1. *Bro.* 162. *Wi. Ent.* 180.
 On bond, when part had been received, *Bro. Vad.* 205. 2. *Inst. Cl.* 307. *Ra. Ent.* 197. On *two* bonds, 2. *Bro.* 73. *Wi. Entr.* 241. 177. *Mo. Intr.* 168. *Br. R.* 191. *Br. Vad.* 161. 208. *Cl. Man.* 209. *Ash.* 179. On *three* bonds, 1. *Sand.* 288. *Wi. Ent.* 181. *Mo. Intr.* 149. On bond *without date*, *Bro. R.* 196. 2. *Inst. Cl.* 322. 3. *Bro.* 124.
 On bond to the *marshal of the marshalsea*, 1. *San.* 156. To a *churchwarden*, (See Bastardy Bond and Indemnity Bond, *post.*) 2. *San.* 80. On bond to the bailiff of a liberty, (See Bail Bond, *post.*) 1. *San.* 14. On bond by grantee of the king, *Br. R.* 181. *Bro. Vad.* 239.
 On bond by *bishop and his commissary*, *Br. R.* 220. On bond to the chamberlain of the city of London, *Tbo.* 134.
 On bond dated one day, and delivered another, 18. H. 6. 8,

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Bond. By and against REPRESENTATIVES, EXECUTORS, &c. (See Heirs and Devisees, &c. Pleas, } (11).
:c. post. and Bonds, aute.)

PRECEDENTS IN
BOOKS OF PRACTICE,
REPORTERS, &c.

Declaration on bond by an *executor* of an executor, against an executor.

By executors of obligee against obligor.

Declaration by *executor* of a surviving executor of an executor, who is also *administratrix cum testamento annexo* of obligee, against heir at law of obligor, on a bond.

Declaration on bond against husband and wife, *executrix* of obligor, her late husband.

Declaration in debt on bond by husband and wife and A. B. (the wife and A. B.) were *executrices* of obligee against obligor.

Declaration in debt on bond at suit of *administratrix cum testamento annexo* of obligee against *executrix de son tort* of obligor.

Declaration in debt on bond by an *executor* of an executor of obligee against the son and heir of obligor.

Declaration in debt on bond, obligee, *executors* of obligee, against executor of administrator of obligor, suggesting a *devastavit* by defendant's intestate.

Bill on a bond by *assignee* of an *insolvent debtor's* state after his discharge, against the obligor, who was an attorney of the C. B.

Debt on bond in B. R. administrator of obligee against *executrix* of obligor.

Declaration by administrator *de bonis non* against an *executrix* of an *executrix*, alledging a *devastavit* of the first *executrix*.

Declaration by *executors* in debt on bond against an *executor*.

Declaration on bond by surviving obligee against *executor* of obligor,

on bond by *executor* of obligee,

on bond by the Duke of York, as *assignee* by letters-
sent from the king of the bond in question, which was
sted in his majesty on attainder of obligee for high trea-

1,

on bond by attorney-general of the *present*, on a bond
the late king,

2. R. P. R. 236.

1. R. Pr. C. B. 452

Lill. Ent. 144

Ibid. 145

De-

- Declaration in debt on bond made in the year 1681, sued 1718 by *executor* of obligee, against heir of the heir and devisee of obligor. Plea, prays *oyer* of condition, and pleads payment to plaintiff's *testator* after the day. Replication that he did not pay, and issue. Verdict for plaintiff, - - - - - Lill. Ent. 172
- Declaration in debt on bond to plaintiff's wife, whilst sole, against a corporation; imparlance; plea, *non est factum*, and issue; *postea*; tales. Special verdict, finds charter of incorporation of queen Elizabeth and Cha. 2.; further finding of the jury, - - - - - 3. Ld. Raym. 166
- Declaration in C. B. in debt on bond, in an action brought by husband and wife, as co-*executrix* of the last will and testament of the obligee and the other co-*executrix*, against the heir of the obligor, proscot of letters-testamentary, - - - - - 2. Mod. Ent. 179
- Declaration on bond by *executrix* of obligee against an attorney, - - - - - Lill. Ent. 178
- Debt against *husband and wife*, administratrix on a bond payable by several instalments made by the testator in his lifetime, - - - - - Ibid. 158
- By executor against abbot, where *predecessor* was bound by bond for payment of money borrowed, *Ra. Ent.* 152. *Vet. Int.* 41. Bond for goods sold, *Ra. Ent.* 205. *Vet. Int.* 75.
- Against succeeding abbey, where his predecessor was dismissed, *Ra. Ent.* 1. *Vet. Int.* 109. Against succeeding abbey concerning lands sold, *Ra. Ent.* 87.
- Debt on bond by executor; plea, that testator and other creditors of defendant did covenant for a composition, on pain of forfeiting the principal debt, and that in this case the writing would be a sufficient plea; replication, that he had no notice of the writing before the original; demurrer, 1. *Lut.* 415.
- Like plea and judgment, for plea for that composition was alledged to be made before the day of exhibiting bill, where it should be before suing out the original, 1. *Lut.* 634.
- Like plea adjudged bad, for that no notice was given to plaintiff of the composition, and for that the money was tendered in court, 1. *Lut.* 635.
- Debt on bond by *administratrix* against H. C. aunt and heir of E. C. daughter of B. C. obligor; plea, *riens per descent*. Special verdict, and judgment for plaintiff, 1. *Lut.* 503.
- Debt against *administrator* in the *exchequer*; plea, *plene administravit* before bill exhibited; replication, that plaintiff did not prosecute a *subpœna* with intent to exhibit the said bill, &c.; and averment, that defendant *had assets* at the time of the return of the *subpœna*; rejoinder, that plaintiff did not give notice, &c.; and issue taken on the notice.
- Debt on bond by *administrator*; plea, that intestate was attainted of *burglary* at the goal delivery at the Old Bailey, 1. *Lut.* 610.
- Debt on bond by administrator of R. B. made to him by Sir J. H. and that he was seised in fee of lands in Bermudas, that to defraud his creditors he covenanted with defendants to be seised, &c. to the use of A. B. in tail general, remainder to his right heirs, &c. and sets out a *private act* of parliament concerning said lands, with a proviso, that the act should not deprive the *administrator* of R. B. the intestate, &c.; demurrer and judgment for the defendants, for that the matter comprised in the count is matter of trust, &c. and proper for a court of equity, where A. B. ought to be a party, 1. *Lut.* 623.

tor of survivor on bond made to two, *Ra. Ent.* 323. Against an executor d, 321. *Co. Ent.* 127. 268. 10. *Co.* 120.

and *feme* on bond made to wife whilst sole, and by others deceased, against or, *Ra. Ent.* 322.

and the wife of one of them, on a bond made to two and to the *feme* against or of executor, *Co. Ent.* 150.

administrator against *husband and wife* executrix, who died after judgment, at husband wasted testator's goods to the value of the debt; demurrer to decision, and judgment for defendant, 1. *Lut.* 670.

bond by executor; plea, a letter of licence from testator and other creditors &c. without being arrested, &c. provided defendant should assign and secure creditor's use all the profits of the tithes of the rectory of S. as by custom in the law should be devised; that W. B. learned in the law, and defendant's counsel, devised a letter of attorney, &c. Replication, protesting the plea is insufficient; faith, that the said writing is not a reasonable assignment, and traverses that the said W. B. is a counsellor at law. Demurrer, judgment for plaintiff, 1. *Lut.* 675.

ion by the king's grantee on a bond made to one who had committed a felony whereof inquisition was taken before the coroner, *Br. R.* 181. 1. *Sand. Bro. Vad.* 239. *Asht.* 205. 1. *Br.* 108.

or and burgesses of L. against executor, on bond, *Wi. Ent.* 201. 10. *Co.*

ree of commission of bankruptcy, on bond, &c. made to the bankrupt, *Tho. Br. R.* 185. *Bro. Vad.* 258. *Bro. Met.* 159.

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or on bond, *Wi. Ent.* 180. 228. *Br. R.* 173, 175. *Cl. Man.* 203. *Mo. Intr.* *Bro. Vad.* 150. 174. *Cl. Man.* 291. *Cl. Aff.* 314. 2. *Instr. Cl.* 308. *Co. Ent.* 45, 146. *Vet. Int.* 232. 1. *Br.* 82.

and *feme* executrix on bond, *Hansf.* 86. *Ra. Ent.* 150.

tor against executor, on bond, *Wi. Entr.* 229. 226. 340. *Ro. Entr.* 208. *Hansf. Mo. Intr.* 168. *Cl. Man.* 204. 1. *Br.* 86. Against executor on two bonds, *Vad.* 180. *Bro. Met.* 143. 2. *Instr. Cl.* 309.

d *feme* executrix and co-executor against an heir on bond, *Br. R.* 194.

or of executor, *Ro. Ent.* 208. *Br. R.* 194. *Cl. Aff.* 332. And against an bond, *Clif.* 242.

baron and *feme* executrix on bond, *Ro. Ent.* 229. *Tho.* 149. Executrix before marriage, *Mo. Intr.* 171.

executor against five executors on bond, where one was outlawed, *Bro. Vad.*

tor on bond, and *mutuatus*, *Bro. Vad.* 174.

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on for annuity; rejoinder, that the consideration is
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ebt on arbitration bond.

an action on arbitration bond, that defendant tender-
d offered to pay the money awarded, but that neither
tiff, or any one on his behalf, attended to accept the
; replication, that defendant did not attend,
an action on arbitration bond, that the arbitrator did
ake any award; replication, that the arbitrator did
an award, which is set forth; rejoinder, that the ar-
or did not make any such award, and that the award
ot ready to be delivered; surrejoinder, that the award
eady to be delivered,
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1, award set forth,
er to a replication to a plea in bar, to debt on an
ation bond; joinder thereto,
ings in an action of debt in C. B. on an arbitration
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- Debt on bond against an *executor*, for performance of an award; plea, *nul award made*. Replication, setting out award, by which defendant's testator was to pay plaintiff twenty-four pounds ten shillings and tenpence halfpenny on delivery of award; breach, that the testator had not paid on delivering the award, without saying, or *never since paid*; breach held good, 1. Lut. 393.
- Debt on bond for performance of an award; plea, *nul award made*. Replication, setting forth award, and averment that plaintiff was ready at the day and place aforesaid, and tendered the money awarded, and that no person was ready to receive it; and *tout temps prist* since; and breach assigned, that defendant had not delivered quiet possession of the messuage, &c. *Ibid.* 520.
- Debt on bond to perform award of umpire. Plea, that umpire awarded defendant to pay plaintiff six pounds, and that afterwards he should release to plaintiff, and permit plaintiff to enjoy a certain close. Averment of payment of six pounds, and that he was always ready to make a release, and had not disturbed plaintiff in the enjoyment of the close. Replication, confesses the award, *prout*, but he further awarded, that on payment of six pounds, the plaintiff should make defendant a general acquittance; and that he avers, that defendant had paid the said six pounds, but did not take issue on that, but traverses that the umpire awarded only as the defendant had alledged, 1. Lut. 525.
- Plea to arbitration bond; no award by arbitrators, nor by umpire. Replication, that arbitrators did not award, but shews the award of the umpire, and breach for non-payment of five pounds. Demurrer thereto, and judgment for plaintiff; and the court said, that the arbitrament was final, and that the words "towards his charges," should be taken in satisfaction of "all charges," 1. Lut. 530.

debt on bond to perform award of an umpire, so that the award be made in writing, or by parol, before two testimonies. Plea, no award made by arbitrators or umpire. Replication, that umpire made his award in terms, but did not say before two testimonies, and for that it was bad, 1. *Lut.* 536. 538.

debt to award, no award made. Replication, that the arbitrator awarded that defendant should pay plaintiff twelve pounds on a certain day, and that defendant should take a mare and foal within one week from the plaintiff. Breach, for non-payment of twelve pounds; award held good, 1. *Lut.* 529. 540.

debt on bond to perform an award, and to be made of the premises. Plea, no award. Replication, setting out the award; and breach assigned, that defendant had not paid said eleven pounds according to the form and effect of the award. Demurrer, 1. *Lut.* 545.

debt (to debt on bond to perform an award); no award or umpirage made. Replication, shewing the award of umpire; and breach, that defendant did not pay twelve pounds fifteen shillings. Demurrer, and judgment for defendant (the submission being conditional), for that the award of delivery of the books, without alledging them to be in boxes, was uncertain and void, and therefore void *in toto*, 1. *Lut.* 550.

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debt (to debt on arbitration bond) no award made. Replication, shewing the award; breach, non-payment of eighty-three pounds. Rejoinder, that plaintiff did not submit. Demurrer, and judgment for plaintiff, *Ibid.* 571.; and he shews where award might be good, by reason of remedy in equity, and where the thing awarded to be done to a stranger to the submission should be good; and also when an award would be good, how a release is awarded, for that the bond of submission would be by that released, 1. *Lut.* 571.

declaration on bond to perform an award on a conditional submission. Plea, that arbitrators awarded defendant on or about the fifteenth of January then next to pay to plaintiff fifty pounds, and that defendant, at a certain time and place, should make open confession of his offence for battery of plaintiff; that he had paid fifty pounds, and that plaintiff had appointed the time, &c. Replication, that the arbitrators, within the time limited by the condition, made their award, &c. for that they awarded defendant to pay plaintiff fifty pounds for costs of suit, &c. and moreover awarded the confession in the plea to be made, and besides, that on payment to give releases to each other, that he had appointed time and place, &c. and given notice to defendant, and that defendant had not paid, &c.; and this, &c. Demurrer; replication adjudged good after several objections, 2. *Lut.* 1597.

debt (to debt on arbitration bond). no award made. Replication, shewing award; and breach for non-payment of twenty-eight pounds twelve shillings and fivepence. Demurrer, where another person was party to the submission, 2. *Lut.* 1627.

debt on bond to perform an award, and defendant awarded to pay to plaintiff two hundred and fifty pounds in full satisfaction of his part and share of the estate of H. P. at several days. Plea, no award made. Replication; breach, that defendant had not paid the said one hundred pounds on the twenty-fifth of March. Rejoinder, that H. P. made a *nuncupative* will, and named his wife and M. plaintiff's wife, executors, and that plaintiff's wife died before the submission, and that the dispute was concerning all the personal estate of the said H. P. that was submitted, and that the award was not of the personal estate. Judgment for plaintiff on demurrer, 1. *Lut.* 382.

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should pay plaintiff twenty-nine pounds two shillings and tenpence halfp
Breach assigned for non-payment of the money. Judgment for plaintiff on de
rer, 1. *Lut.* 389.

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he defendant in the principal action to go at large. Repliation, that the plaintiffs did keep defendant in custody until he gave bond for his appearance; and traversing that he same was given for ease and favour. Rejoinder, that the same was given for ease and favour,

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debt on arbitration bond by bill of Middlesex, by *latitat*,

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as to an action on a bail bond, that no such *alias* bill of Middlesex was stated in the declaration issued against the principal. Replication, that such *alias* bill of Middlesex did issue against principal,

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bailliff of a liberty of Westminster, for appearance, 1. *San.* 14.

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debt on bond by the *sheriffs* of London on a bail bond, but in the declaration it is not alledged that it was made to them by the name of sheriffs; after *oyer* of the bond, the condition is only in *hæc verba*, and the defendant pleads that it is a *fictitious* writ to make the bond within the statute 23. Hen. 6. which he pleads. Re-

plication, and prays that the bond itself shou'd be entered in *hæc verba*, which done, and then sets out the writ, and that the taking of the said bond is warran by the writ, and by this mean judgment was for plaintiff, 1. *Lyt.* 680.

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Debt on bond to indemnify the plaintiff from the charges of a bastard child. Plea, that the mother took the child away. Replication, that it hath since become chargeable to the parish, and the plaintiff hath been obliged to pay. Replication, that the child was in the mother's keeping, and that it was not in the defendant's power to take it from her: the plea held bad on demurrer. Judgment for plaintiff, - - -

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Debt on a bastardy bond against the reputed father. Plea, that after the filiation, and the execution of the bond, the mother removed to another parish, and was there delivered, whereby the child became settled there, and that if plaintiffs have been damnified, it was of their own wrong. Replication, that the mother was settled in plaintiff's parish, and that soon after its birth she returned with it, and have ever since continued with them, but the defendant never contributed toward the child's support, so that plaintiffs, for fear it should die were obliged to, and did otherwise than of their own wrong maintain it. Rejoinder *de injuria sua propria*, - - -

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bt on bond, with condition, that if a certain ship was safe in the isle of M. on a certain day, well and sufficiently manned, victualled, tackled, and provided for a certain voyage, &c. and having finished it, should return to Plymouth, or any other port in England, and pay to plaintiff one hundred and twenty pounds. Plea, that the vessel was well manned, victualled, and tackled, but by the force of the wind was disabled from performing her voyage. Judgment for plaintiff, for *that defendant did not state in his plea that she was sufficiently provided for*, 1. Lut. 198.

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Debt on Bonds for Performance of Covenants, and Bastardy Bonds, *ante.* 532).

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. Debt on bond at suit of administratrix against surety, for the faithful accounting of a clerk, and to indemnify.

. Debt on indemnity bond, obligees against obligor by original in K. B. with condition to indemnify the sheriff of Middlesex in retaining *nulla bona* after seizing on *fieri facias* against defendant.

. Declaration to debt on bond, obligees at the suit of obligor, the wife of defendant

. Declaration in debt on bond at the suit of the knight marshal.

Declaration in debt upon an obligation against one of the sureties therein, for honesty and fidelity of a broad clerk to a

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brewer

brewer. The defendant craves *oyer* of the condition, which is set forth ; and pleads, 1st, that it is not his deed ; 2d plea, that at the time of making the obligation, the plaintiff carried on the trade of his own account, only without a partner, and until such a day and year when the plaintiffs entered into partnership in the trade with one J. D. and that all the time the broad clerk served the plaintiff alone he served him honestly, and accounted to him justly, The plaintiff replies, and assigns a breach of the condition, that the broad clerk received such a sum of money on the partnership account for, and did not pay the same to the partners, or either of them. Demurrer to the replication, and a joinder in demurrer. Judgment for the defendant, that breach aforesaid is not within the condition, - - - 3. Will. 534, 2, Will. Rep.

Replication to plea of *non damnificatus* to debt on bond of indemnity, by the executor of the late warden of the Fleet Prison against the jailer, shewing the particular damage in the following way : that before the time of giving the bond in question, the plaintiff's testator, who was the principal warden, and the defendant jailer under him in the Fleet, and that before the giving of the bond, one Francis Hind was a prisoner in the Fleet, in execution for debt at suit of A. H. knight, removed hither from K. B. prison *babeas corpus*, and that defendant permitted him to escape against plaintiff's testator, and reversed judgment, which was afterwards affirmed on error, of which premises defendant had notice, so says he was damnified, - - -

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Plea to debt on bond for the non-payment of several bills of exchange, conditioned to be paid, with interest, from the day of the date, by way of penalty if the said bills were ; protesting, that before the suing forth the original writ, the defendant, upon producing such bill with the protest, did well and truly pay, &c. together with interest, from the day

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of the date, &c. and that the bills were never presented for acceptance. Replication, that bills were presented and protested for non-payment, and issue. Suggestion entered, that said several bills were duly presented and protested for non-payment,

1. H. Bl. Rep. 227

plea to debt on bond, that it was conditioned for performance of covenants, which were to indemnify the obligee from alimony and debts incurred by wife after separation, and that defendant had performed covenants. Replication, that a judgment was recovered against the obligee by a creditor of his wife, and that he paid the debt and costs, of which the defendant had notice. Demurrer and joinder,

3. T. R. 374

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plea to debt on an indemnity bond, that the principal should pay over all rents which he should receive, and also the increase and improvements thereof, upon any new contracts or renewal of leases of performance by principal in his lifetime, and of executors since. Replication, protesting, &c. that after the writing obligatory, and before exhibiting the bill, a large sum of money was received by the principal in his lifetime, for the rents, increase, and improvements, which he did not pay,

1. T. R. 482

plea to debt on bond, conditioned to pay to the officers and soldiers of a regiment, all such as defendant should receive from the paymaster-general for the use of the regiment; defendant pleaded in the words of the condition. Replication, that defendant received sums amounting to, &c. but refused to pay a great part thereof. Demurrer,

2. Bur. 272

Declaration by an *executor* on a bond of indemnity, 3. *Lew. Rep.* 102.

On bond to indemnify against one of the collectors of the New River, *Bro. R.* 204.

On a bill to indemnify and bear harmless, or pay the money, *Pl. Gen.* 231.

Debt on bond bearing date Jan. 10, 33. C. 2. with condition to save harmless the plaintiffs for being bail by one L. at the suit of W. Plea, that plaintiffs were not damnified, &c. Replication, that the said W. in Michaelmas term, 33. C. 2. impleads the said L. in the exchequer, and the plaintiffs in Hilary term, 33. & 34. C. 2. became bail for him; that W. had judgment against L. that W. died intestate, and that the bishop of London had granted administration to J.; that L. did not pay the money recovered against him, but that they paid to the said administrator, 2. *Lut.* 399.

Debt on bond to save plaintiff harmless of certain sailors tickets delivered to defendant. Plea, performance. Replication, that he had been arrested, and expended twenty shillings for his discharge. Rejoinder, that plaintiff had *falsely* procured himself to be arrested; traversing that he was otherwise arrested. Demurrer, that rejoinder was a departure. Judgment for plaintiff, *Ibid.* 424.

Debt on bond, with condition to save plaintiff harmless of another bond in which plaintiff was bound by the defendant, as collector of the New River Company. Plea, that plaintiff was not damnified. Replication, that defendant had received one thousand three hundred pounds, &c. and had paid it according to the condition for which he was threatened to be arrested, to prevent which he had paid two hundred and fifty pounds. Demurrer, and judgment for defendant, 1. *Lut.* 470.

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Debt

Debt on bond, with condition, that P. H. should account for and pay all sums collected by him for plaintiff for rent. Plea, performance generally. Replication, that P. H. had received seven thousand pounds, and that he had not paid, &c. Rejoinder, that (*voier*) he had received five thousand pounds, and that he had given to him (*voier*) an account of it, without answering to the seven thousand pounds charged by the replication to be received by him. Demurrer, and rejoinder held bad, 1. *Lut.* 579.

Debt on bond made to a bailiff of liberty to save harmless concerning certain goods levied under a warrant, and goods of one K. and delivered them to defendant on request, who made claim to the goods, and returned *nulla bona*. Plea, *non damnificatus*. Replication, shewing how damnified. Demurrer, and judgment for plaintiff, 1. *Lut.* 533.

Debt on bond, with condition defendant should pay to plaintiff ten pounds in January ensuing, provided that plaintiff saved harmless, &c. one T. S. from all costs, trouble, &c. which might arise by reason of plaintiff's being with child. Plea, that she had sworn before a justice of peace that the said T. S. was the father of the said infant, on which the said T. S. was taken and compelled to find bail, &c. Replication, that the plaintiff on, &c. was delivered of an infant born a bastard, begotten by the said T. S. and that T. S. was never damnified, by reason of the maintenance of the infant. Judgment on demurrer for plaintiff, *per* *that the intent of the condition was solely to save T. S. harmless from the maintenance of the infant*, 1. *Lut.* 667.

Replevin Bonds.

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|-----------------|-------|
| 1. By Sheriff. | } 18) |
| 2. By Assignee. | |

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1. Declaration in debt by *assignee* of a replevin bond.
6. Declaration on a replevin bond, where the cause was removed from the county court into C. B.
9. Declaration on *assignment* of a replevin bond for want of a rejoinder.
12. Declaration on a replevin bond after removal by *re. fa. lo.* to B. R. and judgment for plaintiff on two demurrers to replications to pleas in bar, and verdict on two issues on two other replications; all proceedings set out.
13. Declaration where plaintiff's goods had been seized as a distress for arrears of rent. Suit prosecuted between the parties, and the goods of tenant delivered to plaintiff irrepleviable. The sheriff had received a bond from defendant and one A. B.; bond assigned, and the present action brought by assignee.
24. Declaration by assignee of a steward of a court duly authorized to grant replevins on a replevin bond against

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one of the bail. The distress was made by the plaintiff for rent due to him. The suit was removed in.

C. B. where plaintiff obtained judgment for a return.

Declaration by landlady (who distrained for rent), assignee of a sheriff, upon a replevin bond against the principal.

The plaint was removed by *re. fa. lo.* into C. B. where the present defendant declared the present plaintiff avowed, but the present defendant did not plead,

Mor. Pr. 500

Declaration in debt on replevin bond; defendant craves oyer of the bond and condition. Plea, that bond was given to the plaintiff upon a replevin made, &c. by pretext of the statute Eliz. 1.; and that it is not warranted by that statute, because it is to indemnify the sheriff, &c.

Demurrer; joinder, - - - 3. Ld. Raym. 143. N. Ed.

Debt on bond to prosecute a replevin in the county court, and to indemnify the sheriff. Plea, statute 13. Edw. 1. judgment for plaintiff, 1, *Lut.* 686.

Debt on Bond for performance of Covenants and Conditions.
(See also Debt on Award—Arbitration Bonds—Indemnity Bonds—Indentures—Articles of Agreement—*ante.*)

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Debt on bond; conditioned that defendant *should not exercise the business of a surgeon* within ten miles of plaintiff's residence. Plea, that it was agreed that defendant should become an assistant as long as it should please plaintiff, and that defendant should not exercise the business within a certain distance; that plaintiff without any misconduct dismissed defendant. Replication, that he was guilty. Special demurrer, that it was not alledged in the replication *how* or in what manner defendant was guilty of misconduct,

5. T. R. 118

Debt on bond, that a joint administrator shall render an account of the goods that shall come to his hands as administrator, and shall make equal distribution, 1. *Sand.* 100.

On bond, with condition to collect and receive money on a *brief*, and render an account, *Re. Dec.* 238.

That a stranger shall perform a decree of the court of chancery, and make a release, 1. *Sand.* 212,

That defendant would surrender copyhold lands at the next court, and obligee should possess and enjoy them, *Ibid.* 145.

On bond for performance of covenants by the assignee, on indenture of assignment to him, *Ibid.* 51. 2. *Bro.* 68.

For

For performance of instructions relative to the post-office, 2. *Sand.* 404.

On bond to perform covenants, 2. *Bro.* 68. *Bro. R.* 246.

To perform articles about a way, *Lev. Ent.* 47. To make a lease, *Re. Dec.* 232.

Debt on bond to perform articles between a brewer and innkeeper by which the plaintiff was to demise to defendant an inn in K. and amongst other covenants the plaintiff was to serve the inn with ale and strong beer. Plea, performance generally. Replication, that plaintiff said that he made the said demise, &c. and that he was at all times ready to serve the inn, &c.; but for breach saith, that the defendant, during that term, had beer and ale of other brewers, and to sell it in the said inn. Demurrer. 1. *Lut.* 374.

Debt on bond to perform covenants in a lease for years of a mill made by plaintiff to defendant by indenture, and that plaintiff covenanted with the defendant to provide and allow him divers things by name, and also master timber for repair of the mills, and a distinct covenant. Defendant covenants to repair the mills, &c. and pleads performance generally. Replication, that the defendant had permitted the mills to be in decay, and shews in what particulars. Rejoinder, that he had requested the plaintiff to allow him master timber, &c. and that he had refused to do it. Demurrer thereto, 1. *Lut.* 394.

Debt on bond to pay two hundred and fifty-three pounds, &c. on the eleventh of March then next, giving ten days notice at defendant's house in Lombard-street. Plea after oyer, that plaintiff gave no notice. Replication, only says that defendant had not paid the money according to the form of the condition. Rejoinder, that plaintiff had not given notice. Judgment for plaintiff on demurrer, 1. *Lut.* 410.

Debt on bond for good behaviour of an apprentice, and among other things that the apprentice from time to time, on reasonable demand made, should render an account, &c. Plea, performance of all specially pleaded. Replication, assigning breach, that certain goods came to his hands on a certain day at H. in parts beyond the seas, and he was requested to render an account of them. Demurrer, 1. *Lut.* 386. and replication held bad.

Debt on bond by husband and wife, on condition in effect to perform covenants in certain articles, one of which was to pay to plaintiff, then a widow, ten pounds per ann. so long as defendant and plaintiff should cohabit. Breach for non-payment of ten pounds. Plea, that plaintiff and defendant at the time of making of the bond and articles, or ever since, never cohabited. Demurrer, and judgment for plaintiff; for that the words must be taken to intend living together at the time, and not in the place, 1. *Lut.* 555.

Debt on bond to perform covenants; and performance pleaded generally. Replication, breach badly assigned. Demurrer, if the plaintiff in his replication does not assign a breach well, plaintiff not entitled to judgment, as if defendant had not well pleaded performance, 1. *Lut.* 603.

Debt on bond to perform marriage articles of A. and defendant, by which, among other things, defendant covenants with plaintiff and another person, since dead, to pay annually, at Lady-day and Michaelmas, twenty pounds to the use of A. Plea, performance general. Replication, that marriage was solemnized on a certain day, and defendant did not pay ten pounds at the day certain. Averment, that A. was living, &c. Demurrer, objection taken to the action, that the said payment was not to continue longer than for the first year after marriage; but it was determined that it was to continue during the joint lives of *husband and wife*, and judgment for plaintiff, 1. *Lut.* 459.

Debt on bond, with condition to perform covenants in an indenture of apprenticeship of a sailor. Plea, stat. 5. Eliz. c. 5. s. 12. which requires the indenture to be enrolled, &c.; and that indenture was not enrolled, &c. Replication, that apprentice had left his service. Demurrer. 1. *Lut.* 474.

Debt on bond against *executor* on condition of paying plaintiff five pounds to the use of his daughter at the time limited in a certain indenture, &c. Plea, that the indenture was a deed of feoffment by the plaintiff to H. T. to the use of testator and his heirs; and that testator covenanted to pay five pounds to plaintiff within two months after the death of J. B. who is living. Demurrer, for that the defendant ought to have produced the deed of feoffment; but judgment for defendant, 1. *Lut.* 481.

Debt by administrator on bond. Plea in abatement, *that as well the two others named in the bond as defendant, bound themselves jointly, and were not joined,* 1. *Lut.* 695.

Debt—against HEIRS and DEVISEES, and on Bonds, &c. (See By and against Executors, Debt on Bills Penal, and Indentures, *ante.*)

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328. Declaration in debt against defendant and his wife, for not paying plaintiff an annuity which was left him by one E. M. who had devised lands to defendant's wife, and had made her sole executrix of his will before her marriage with defendant, and out of which lands the annuity was to be paid, &c.

374. Declaration in debt on bond in C. B. obligee against the heir and devisee of obligor.

42. Declaration in debt against defendant and his wife, for not paying plaintiff an annuity which was left him by one E. M. who had *devised* lands to defendant's wife, and had made her sole *executrix* of his will before her marriage with defendant, and *annuity* to be paid out of the lands. (See INDENTURES, *post.*)

Debt on bond against heir of obligor. Plea, confesses action, and shews certainty of assets, Judgment and execution. (DAVY v. PERYS.)

Declaration in exchequer in debt on bond against *devisee*, pursuant to the 3. and 4. Wm,

Declaration in C. B. for rent, brought by the devisee of the grantee of the reversion against the lessee of a tenant, by the custom plea, that the lands descended to S. G. and that she ejected D. H. Replication, that the defendant ought not to be admitted to alledge that the lands descended to S. G. as daughter and heir, &c, because that after the bargain and sale, and before the entry of the said J. G. C. G. and A. his wife levied a fine. Rejoinder, protesting that the premises were divided from the manor, and that the premises were not contained in the fine,

Declaration in debt for rent, by an executor of an executor against assignee of the whole term. Plea in bar, that defendant was ready upon the land to pay, and that the rent hath not since been demanded, Demurrer, with *causes*, and joinder,

Plow. Rep. 438

2. Mod. Rat 186

Ibid. 200

3. Ld. Raym. 4. Ed. 88
By

- By *administrator* against *baron and feme*, daughter and heiress, *Mo. Intr.* 161.
 Against son and heir on bond, 1. *Bro.* 156. *Tbo.* 117. *Han.* 89. *Vid.* 177. *Bro.* R. 194. *Bro. Vad.* 154. 172. 2. *Mo. Intr.* 232. *Cl. Max.* 208. 2. *Inst. Cl.* 314.
 Against son and heir *within age*, 1. *Bro.* 182. *Cl. App.* 401. 2. *Inst. Cl.* 373.
 Against son and heir on several bonds and bills made by the father, *Re. Dec.* 221. *Clif.* 243.
 Against *several* heirs on bond, *Bro. Vad.* 155.
 Against an heir, by *executor of executor*, on bond, *Clif.* 242. Against heir by *executor*, *Ibid.* 242, 244.
 Against *brother* and heir, where a third person named in the writing did not seal, 1. *Bro.* 166. Against brother and heir, *Clif.* 243.
 Against brother and heir of J. late son and heir of F. on bond by the father, 2. *Bro.* 72. Against sister and heir of son and heir, *Clif.* 242.
 By *baron and feme*, *administratrix*, against son and heir on bond, *Tbo.* 134.
 Against *baron and feme*, cousin and heir, on bond, *Ro. Ent.* 2. *feme* being heiress, 3. *Lev. Rep.* 300.
 By *executor* against *baron and feme*, daughter and heiress, *Ro. Ent.* 210. By *administrator*, *Mo. Intr.* 161.
 By *administrators* against three co-heiresses of lands in gavelkind, *Bro. R.* 195.
 Against two sons and heirs, one by common law, the other by custom of borough English, on bill, *Bro. R.* 180.
 Against cousin and heir of uncle, *Ibid.* 195.
 Against an heir on an *indenture*, *Bro. Vad.* 172.
 By son and heir on a demise by the ancestor, against second assignee of lessee for years, *Tbo.* 118. By son and heir, on a demise made by the ancestor for twenty-one years; rent arrear, *Ro. Ent.* 187.
 By the heir against *executor*, on demise made by the ancestor for years by *indenture* for rent in arrear, part due by testator and part since his death, *Bro. R.* 186.
 By *baron and feme*, devisee, against baron and feme, on demise for years made by devisor to wife whilst sole, *Tbo.* 123.
 By the devisee of the grantee of reversion, by indenture enrolled against assignee of lessee, 1. *San.* 250.
 By devisee of reversion, on demise made by devisor against lessee for years, *Wilf. Ent.* 225.
 Declaration against son and heir on bond, *Ra. Ent.* 172. *Plo.* 438.
 On bond of statute staple, *Ass.* 191. Against cousin, *Hcr.* 307.
 Against the heir of the uncle, 3. *Bro.* 121.
 Against five men and their wives, and one H. widow, sisters and co-heiresses, on bond, *Co. Ent.* 126. Against two and their wives, co-heiresses, *Reg.* 140.
 Against two and their wives, sisters, and the son of another sister, co-heirs, *Ass.* 231.
 Against two co-heirs of lands in gavelkind, 1. *Br.* 128. and,
 Where the other co-heiress is *waived*, *Ra. Ent.* 207. 1. *And.* 10.
 By administrator against three co-heirs of lands in gavelkind, 3. *Bro.* 122. *Ass.* 208.
 Against the brother, an heir, and cousin, another heir, *Reg.* 140. Against brother and heir, where one named in the bond did not seal, *Hcr.* 320. *Ass.* 200.
 By baron and feme, executrix, and co-executrix, against the heir, 3. *Br.* 120. By executor against executor of the heir, *Ra. Ent.* 172. *Pct. Intr.* 41.
 Debt by *executor* against heir, on bond of his father. Plea, *riens per descent præter*, reversion on lease for years made by his father. Demurrer, with causes, 1. *Lut.* 442.

Charter-party, Policies of Assurance, &c. (19)

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Declaration in B. R. in debt on a charter-party, at the suit of *administrator* of the owner against freighters of a vessel, to recover the penalty for the extra time they took in unloading.

Declaration in debt on charter-party, at the suit of the owners against the freighter, for the value of the ship and stores (which were taken by the enemy during the voyage), deducting for reasonable wear and tear, &c.

Declaration in debt against defendant, for penalty of eight hundred pounds for non-performance of a charter-party entered into between plaintiff and defendant for hire of plaintiff's ship, which was to carry defendant's goods from London to the ports of A. and B. and stay there respectively sixty-five days for unloading and receiving her homeward bound cargo, and ten days more if necessary. Plaintiff shews a specific performance of the outward voyage on his part, and assigns for breach, that defendants did not, during the time aforesaid, load and dispatch the ship from the ports of A. and B. or either of them, with goods to London, contrary to their covenants.

Declaration in debt, against the London Assurance, on a *sealed policy* of a ship and cargo from L. to G.; ship bulged and strained in her voyage.

Declaration in C. B. in debt for eight hundred pounds, upon charter-party of affreightment,

2. Mod. Ent. 211

Declaration on charter-party, *Bro. R.* 246.

Charter-party between plaintiff and defendant, with another by which defendant bound himself in one thousand pounds to perform covenants, and defendant did not perform in that either, nor the master of the ship brought her back, *Vid.* 129. Ship lost, *Bro. Rad.* 168.

Charter-party, and bound in one thousand five hundred pounds to perform covenants. Defendants did not perform in that, neither defendant, nor factor, nor any other person on their part, within the space of seventy days after notice, or brought any merchandizes in the said ship; but made default, *Vid.* 155.

Each assigned, that defendants did not pay for the freight of the ship, nor any part of the port charges or primage, *Ibid.* 159.

It for eight hundred pounds on a clause in a charter-party of affreightment, and declaration held *good.* 1. *Lut.* 704.

On INDENTURES. (20) (See Heirs and Devisees by and against, *ante*, 539—Leases, *post*—Articles of Agreement, *ante*—Rent—Simple Contracts.)

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44. Declaration for the arrears of an annuity granted by indenture.

Debt for an *annuity* granted by defendant to plaintiff in consideration of faithful service. Defendant craves oyer of the deed whereby the defendant covenants to pay annuity, if the same be personally demanded, and pleads that the plaintiff did not demand the annuity. Demurret, and judgment for plaintiff,

1. Will. Rep. 221

Declaration in B. R. in debt for rent on indenture, at the suit of an heir, the rent having accrued in his own time,

Pl. Aff. 375

Debt for five hundred and fifty-three pounds by husband, administrator of his wife, on an indenture. Plea, *non est factum* and issue, and verdict for plaintiff. Objection in arrest of judgment, 1st, action brought for five hundred and fifty-three pounds, when it appears to be five hundred and fifty-six pounds due; 2d, that declaration is by way of the will, &c.; 3d, that it is alleged that administration was granted to plaintiff at York by the archbishop of C. which is out of the province; but all over-ruled. 1. Lut. 533.

On a demise, by indenture for years, of rectory and tithes, 3. Bro. 15.

Of a demise in plaintiff's house of a chamber to defendant for five years; rent arrear for three years, Ra. Ent. 176.

By executor on demise of a manor by name and for years, and rent arrear to testator for the first year, *Ibid.* By executor, for rent arrear on a demise for years, *Ibid.* 330. By executor for rent unpaid to plaintiff after testator's death, Aff. 183. By administrator for rent unpaid to intestate on a demise at will, *Ibid.* 202.

By executor, for part of rent due to testator, and other part due to executor after the testator's death, *Ibid.* 213.

By executor and baron and feme, *co-executrix*, against executor, on the demise of a manor for years by indenture, for rent arrear unpaid in testator's lifetime, Ra. Ent. 176.

By executor, for services unpaid, Aff. 229.

By brother and heir, on demise made by the father, 3. Br. 16.

By son and heir, on demise of the father, against the second assignee of a lessee for years, *Ibid.* 17.

By the heir against executor, on a demise made by the father to the testator by indenture for years, rendering, &c. whereof part was due to testator, and the other part after his death, 1. Br. 105. Where the whole rent is unpaid to the heir of testator, 3. Br. 13.

By grantee of reversion by indenture entolled against lessee for years. *Ibid.* 19.

Baron and feme seised of lands for their lives, *baron* demised to defendant for years, rendering rent; *feme* died, *baron* demises and grants to plaintiff for years, determinable on his life; defendant attorns, and rents in arrears, 1. Br. 96.

ON

On a demise for years by W. seised to A. who makes his executor, who assigns the term to defendant; W. devises to E. for life, remainder to S. who sells the reversion to the plaintiff by indenture enrolled, and dies; for rent in arrear, *A/bt.* 189.

By prebendary against executor, for the prebends demised to testator for years by plaintiff's predecessor, *Co. Ent.* 122.

By the widow, for customary lands held by the custom of the manor, is entitled to the rent on the demise made by the *baron*, *Co. Ent.* 123.

By *baron* and *feme*, executrix, for rent of cows unpaid, 1. *Br.* 95.

For rent of sheep for three years, and for money agreed to be paid, full value of each cow, if not re-delivered, *A/bt.* 210.

On the demise of the moiety of an island, rendering, &c. J. devises the whole island to W. in tail, remainder to plaintiff, who covenants to stand seised to uses in tail; W. dies without issue, and rent in arrear to plaintiff, 2. *Co.* 9.

By tenant by *elegit* against lessee for years, *A/bt.* 206.

For several rents and monies forfeited, as penalty for rent unpaid, *Ibid.* 185.

By administrator of co-heir, for third part reserved of a feoffment of lands to a *gnave* estate, *Ibid.* 236.

By administrator of vicar, for rent by prescription due by defendant, proprietor of a rectory, 1. *Bro.* 76.

Debt for rent by assignee of reversion in fee, by bargain and sale for a year, and grant of the reversion, against an assignee of the term for years, grant to the first lessee, if three lives should so long live. Demurrer to declaration and judgment for plaintiff; for that defendant did not appear to argue his demurrer; but plaintiff should have been named assignee, 1. *Lut.* 478. 481.

Debt on indenture; for that plaintiff covenanted with defendant to assign to him, or to any other he should appoint, on the thirtieth of January then next, ten shares in the company, and defendant covenanted with plaintiff to accept them, and pay one thousand one hundred pounds. Breach for non-payment. Plea, that he had not appointed, nor did assign to defendant. Replication, that he did assign to defendant; but naming no place where, &c. Demurrer; judgment for defendant; because the assignment ought to precede the payment of the one thousand one hundred pounds, *Ibid.* 490. 492.

Debt for three hundred and fifteen pounds, payable in two days, on a deed concerning the purchase of lands conveyed by plaintiff to defendant (inartificially drawn), almost insensible. Plea, after oyer, protesting that the declaration is insufficient; that the plaintiff had not made any good assurance, &c. to defendant, nor had permitted him to enter, &c. Demurrer; and determined for plaintiff, by reason of the intent of the parties to be collected from the whole deed, and that cannot be without rejecting some words in it, *Ibid.* 493.

Against an executor, for the arrears of an annuity granted to plaintiff and J. his late wife by testator for years, determinable on her death, *Ra. Ent.* 151.

By husband, for arrears of an annuity granted to wife, deceased, for life, against heir of grantor, *Co. Ent.* 119.

By executor against executor, for arrears of an annuity granted for life, and several penalties forfeited for non-payment thereof, *Ibid.* 120.

By executor against heir of feoffee of the manor, for arrears of an annuity granted to testator for life, 1. *Br.* 8.

By executor, for arrears of an annuity granted by defendant to testator for life, *A/bt.* 216.

For services done, &c. Plea, that testator afterwards refused to do the service, *Ib.* 216.

On an indenture, with a penalty for payment of money by agreement for meat and drink, *Re. Dec.* 222.

On indenture of sale of land, by which defendant agreed to pay *decanum*, and both parties bound themselves to the performance on each part in penalty of twenty pounds; and breach that defendant did not pay the money, *Pl. Gen.* 265.

That

That defendant incumbered lands by leasing before the assurance made, *Ibid.* 242: *Bro. Vad.* 241.

By a curate on indenture for twenty-six pounds thirteen shillings and fourpence, reserved by the curate of the deanry on a grant of the rectory, and being in arrear, 3. *Lev. Rep.* 75.

On a special covenant to repay money if a third person did not cure plaintiff of the gout, *Bro. Met.* 163.

For two hundred pounds upon a letter of attorney irrevocable, made to the plaintiffs to receive money due or to be due for tithes which the defendant afterwards revoked, *Ibid.* 174.

By executor against pernor of the profits for one thousand three hundred and sixty pounds to testator for arrears of an annuity, 1. *San.* 276.

For rent of tithe corn, &c. on an indenture, and also for a shop for a year upon a parcel lease, *Bro. Met.* 156.

For rent on indenture, 2 *Inst. Cl.* 332.

On a demise by indenture, *Cl. Man.* 239. On demise of tithes, *Ibid.* 241. Mesuages and lands, *Ibid.* 242. For rent due to executor on indenture, 260. Where one plaintiff, *feme*, marries after execution of the indenture, *Ibid.* 265.

For rent by tenants in common, *Ibid.* 224. And one of the plaintiffs by *procbein ami.*

By executor against receiver of profits of houses and lands for arrears of an annuity granted to testator for life, 1. *Bro.* 179. 1. *San.* 276. 282. By executor for arrears of an annuity granted by defendant to testator for life; for counsel and advice, *Tbo.* 133.

Annuity granted to plaintiff by defendant.

Against *baron* and *feme* for arrears of an annuity granted to plaintiff for life by *feme* whilst sole, *Han.* 92. *Bro. R.* 184.

By executor against executor, for arrears of an annuity granted by one testator to another in fee, *Ro. Ent.* 219.

For arrears of an annuity granted to plaintiff in fee by defendant, *Id.* 219. 2. *Inst. Cl.* 335.

By administrator, for arrears of an annuity payable to the vicar of a church by the rector of the same church, or his farm by prescription, against the impropiator, *Bro. R.* 169. Against a parson, on an annuity by prescription, *Pl. Gen.* 102.

By an executor by indenture of grant, *Ibid.* 269. 271. For arrears of an annuity granted by defendant and his late wife, *Ibid.* 96. By the prior, dean, and chapter, *Ibid.* 99.

For arrears of an annuity granted to plaintiff for the life of another, *Clif.* 247.

On indenture, by which defendant and others bound themselves to pay plaintiff money for apparatus purchased, or to procure *assignationem* for them, *Ra. Ent.* 161.

For the delivery *halec*, salt pickle, where the defendant bound himself in ten pounds for performance of covenants, *Ibid.* 161.

By administrator of W. against an abbot, where W. covenants to deliver malt annually, and defendant covenants to pay the money, and both the covenants on each part, *Ibid.* 162.

Against an executor, on an indenture of demise, by which testator bound himself to the performance of covenants, and breach assigned for want of repairs, *Ibid.* 161.

On an indenture, by which defendant bound himself in ten pounds for performance of covenants. Plea, performance. Replication, that he did not repair the hall. Rejoinder, that he did, *Ra. Ent.* 162.

On indenture of demise, by which defendant bound himself to pay plaintiff ten pounds for a certain time; rent unpaid for half a year; and rent in arrear for a whole year, *Ibid.* 162. *Vet. Int.* 128.

On indenture of marriage between plaintiff and defendant, and defendant covenants on an assurance of lands to the son, to pay plaintiff one hundred pounds, and bound himself to the performance of covenants; and breach assigned for non-payment of part of the said one hundred pounds, *Ra. Ent.* 163. *Vet. Int.* 48.

On

in a demise for seven years, and defendant held tenements for three years, *Ra. Ent.* 152.

in a demise to hold till the feast following for rent to be paid on request, 3. *Br.* 12, 13.

in a demise of tenements for a year, and so from year to year at will; for rent arrear for four years, *Ra. Ent.* 152. Messuage and cattle demised for a year, and so from year to year, defendant held for a year and a half, *Ibid.* 175. On a demise to hold at the will of the plaintiff, *Ass.* 190.

in a demise to defendant of apartments within his mansion at will of plaintiff, and defendant put his son to board with plaintiff as long as it should please plaintiff, and to pay annually forty shillings, *Ra. Ent.* 177. *Vet. Int.* 42.

of apartments, chambers, with bed let to defendant, and for servants to board with plaintiff by the week at the will of plaintiff, *Ro. Ent.* 177. *Vet. Int.* 217.

for forty weeks, to pay weekly, *Ra. Ent.* 177.

in a demise of for several acres of land on a certain feast-day, to be held from that day for seven years, and defendant held the lands for three years, *Ibid.* 152.

Where defendant held for the whole term, *Ibid.* 174. 176. *Vet. Int.* 22.

in demise by the bailiff of a manor in the name of plaintiff, where defendant holds the lands, *Ra. Ent.* 174.

7. On LEASES. (21)

see Parol Demise, Simple Contracts—Articles of Agreement, and Indentures, *ante*.—Heirs and Devisees.

for breaches between LANDLORD and TENANT, see *Assumpsit*, VOL. II. p. 9. and Index to Covenant, p. cxiii. Similar Breaches in DEBT.

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7. Declaration in debt for a year and a half rent:

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On 11. Will. 3. for keeping a gaming table called the fair chance; several Counts.

On 13 Geo. 2. c. 19. for printing an advertisement of a plate to be run for under the value of fifty pounds. Two Counts.

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359. For assisting a tenant to remove cattle to prevent a distress, 1. Geo. 2. c. 19. f. 3.
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- Declaration by *husband and wife*, executrix of lessor, after whose death plaintiffs married, against lessee, on lease for rent in arrear, accruing to the plaintiffs after marriage, - - - Ibid. 163
- Debt for rent, by lessor against lessee, *on a lease* for a year, *by parol*. Plea in bar, *nil habuit* in tenements at the time of the demise. Replication, that plaintiff's father recovered a judgment in C. P. against G. J. for two thousand pounds debt, upon which he sued out an *elegit*, and an inquisition returned thereon; and the premises in question being an equal moiety, and the same as mentioned in the declaration, were delivered to him to hold as tenant by *elegit*; and that he died seised, and made plaintiff his executor, who entered, and the debt not being satisfied, says he had sufficient in the tenements at the said time, &c. Rejoinder, that before the plaintiff's testator recovered judgment one A. B. recovered judgment in the exchequer against said G. J. for six thousand pounds debt, and sued out an *elegit* thereon; inquisition returned, that G. J. was seised, &c. and the lands in question, being a moiety thereof, delivered to the plaintiffs in that action; that afterwards one of the plaintiffs died, and the other is now in possession of premises as survivor, and debt unsatisfied, and therefore concludes plaintiff has no estate. Surrejoinder, that the judgment mentioned in the rejoinder was obtained by covin and fraud. Rebutter, that it was for a just debt, traversing the fraud. Surrebutter takes issue on the traverse, - - - Ibid. 168. to 173
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7. For making a false account as to the number of horses, on the same section.
2. Declaration for letting post-horses to hire without being licensed, on statute 25. Geo. 3. c. 51. f. 4.

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3. Declaration for acting as a commissioner of the land-tax, not being qualified.
7. Count for acting as a commissioner of a turnpike, not being duly qualified.
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2. Against a distiller, for not taking out a licence.
8. Declaration on 13. Geo. 3. for retailing spirituous liquors without a licence.
2. On 12. Car. 2. c. 15. f. n. for selling wine by retail without a licence.

Stamps. Apprentice. Gloves. Receipts. Cards.

3. Declaration on the statute for selling a pair of *gloves* without a stamp.
7. Declaration against a parson for granting marriage certificates upon unstamped paper.
4. Declaration on 10. Ann. for selling *cards* unstamped.
- Declaration on 1. Ann. c. 22. f. 2. for getting off a stamp from one deed, and fixing it on to another.

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143. De-

Of the fourth part of two corn-mills, and one mill of a brewer, and malt-house,
2. *Ven.* 176.

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- Plea, that he did not account before auditors, Pl. Gen. 250:**
- Plea, *nil debet* on arrearages of account, where defendant's attorney is examined by statute, Ibid. 257.**
- Plea in *abatement*, defendant appears in the exchequer, and the corporation of Wigan; within the dutchy of Lancaster, *claims cognizance* of the plea, Bro. Met. 241:**
- Plea, that plaintiff on a certain day and year was attainted of felony, which is in full force, and not pardoned, Bro. Vad. 252. That the intestate was *felo de se*, Bro. Met. 224. By assignee of the king, Clif. 190.**

- Plea, *privilege* by clerk as member of parliament, being nominated and elected procurator of the clergy for the diocese of Oxon, *Bro. Met.* 186. 250. Replication to plea of privileges by a *master in chancery*, that he sued out an original out of chancery, and outlawed defendant thereon, whereby he lost his privilege, *Bro. Met.* 219.
- Plea to jurisdiction, that defendant *is one of the barons of the cinque ports*. Demurrer, *Rob. Ent.* 199. By clerk of chancery, *Ibid.* 210.
- Plea, *prior action* by original depending, undetermined. Replication, *nul tiel record*. Rejoinder, and issue, *Bro. Met.* 251. *Lev. Ent.* 54. Another action depending against executrix as heiress.
- Plea, an action depending in London on the same writing. Replication, and issue.
- Plea, king's *protection* under the great seal for a year and a day, 2. *Bro* 106. *Tho.* 214. Protest of queen's patent of protection, and allowed, *Cl. Aff.* 318. *Hansf.* 126. Entry of a protection, *Ibid.* 320.
- Plea in *bar* in debt, that plaintiff was not in England on the day of payment, *Clif.* 146.
- Plea of *outlawry* in bar. Replication, *nul tiel record*; defendant makes default, judgment of *respondeas ouster*, and then pleads *conditions* performed, *Rob. Ent.* 213.
- Plea, *nil debet*, *Wi. Ent.* 225. *Non detinet*, *Bro. R.* 170.
- Plea, *tender* and *uncore prist*, 2. *Mo. Ent.* 236.
- Plea, general *release*. Replication, *non est factum*, *Pl. Gen.* 248. 346. *Bro. Vad.* 503. *Tho.* 429. After the last continuance, *Ibid.* 349. *Bro. R.* 187.
- On release first being delivered, *Ibid.* 348. *Bro. Vad.* 505. Replication, and issue. Plea, release, *Bro. R.* 186. Replication, *non est factum*. Plea, *release* by *testator*, and protest in court. Replication, *non est factum*, 2. *Mo. Intr.* 241.
- Plea, *payment* of part to *testator* and residue to F. an executor before original. Replication, that D. took upon himself the burthen, &c. and F. was within age at the time of the release. Demurrer, *Bro. Vad.* 505. *Release* pleaded, at assizes after issue joined, *Tho.* 431.
- Plea, discharge by *acquittance* of part of the money due. Replication, *non est factum*, *Bro. R.* 174. *Bro. Met.* 185.
- Plea, *agreement* between him and his creditors (of which plaintiff is one) under hand and seal, to take stock and security for twenty pounds, in full discharge of all their debts, *Bro. Vad.* 253.
- Plea, accord, payment, and acceptance of thirty shillings. Replication, it was not agreed, and did not pay, and issue, *Bro. R.* 190.
- Plea, that plaintiff at the time of exhibiting the bill was *covert*. Replication, that he was sole, and traverses coverture, and issue, *Pl. Gen.* 351. *Bro. R.* 203. *Cl. Aff.* 81. *Bro. Vad.* 501. *Ra. Ent.* 168. *Vet. Int.* 74.
- Plea of infancy, *Mo. Int.* 386. *Bro. R.* 176. to debt for rent, *Clif.* 149.
- Plea of infancy to debt on *emisset*. Replication, that the goods were bought for *necessary* apparel, and issue that they were not, *Bro. R.* 200. 3. *Br.* 132.
- Plea of infancy to debt on several contracts, *Ra. Ent.* 163.
- Plea of infancy to debt on several *emissets* of apparel. Replication, that wares were for *necessary* apparel. Rejoinder, and issue, 3. *Br.* 132.
- Plea, that defendant *paid* and *delivered* to plaintiff corn and money, in *satisfactions* of corn, &c. to be delivered, *Vet. Int.* 235.
- Plea, delivery. Replication, protesting that he did not deliver on any day; says, that he did on that day. Rejoinder, and issue, *Tho.* 182.
- Plea, that plaintiff did not give defendant the salt of nitre to make powder; that defendant offered to deliver hay every year, which he refused to accept; and plaintiff did not send his horse to pasture. Replication, issue on offer to deliver hay, *Co. Ent.* 127.

that plaintiff received eight shillings annually for the farming his lands, and defendant at the end of the term was prepared to enfeof plaintiff of the lands, and plaintiff did not come there. Replication, protesting that he did not receive eight shillings annually; for plea, did not receive it the last year, *Ro. Ent.* 182.

Plea to an action brought against tenant at will upon a *lease parol* for the rent of five quarters of wheat; defendant pleads *non detinet*, *Bro. Met.* 181.

Plea, *non debet* the money, and *non detinet* the chattels, *per patriam*, *Pl. Gen.* 251: 1. *Inst. Cl.* 340.

nil debet per patriam for part, *per minus* for the residue, *Cl. Aff.* 127. *Nil debet* to part, to residue assignment and acceptance of rent, *Bro. R.* 226. To *computasset*, *mutuatus*, and *detinet*, plea *nil debet* or *detinet*, *Bro. R.* 259.

Plea—Accord and Satisfaction:

Plea, that defendant paid plaintiff thirty shillings in *satisfaction* as well of the debt demanded as of all other demands, by the testator by agreement. Replication, issue on satisfaction, 1. *Br.* 111.

Plea, that defendant before the day in the condition delivered, and gave to testator ten cart loads of timber in satisfaction. Replication, protesting that he did not know of any timber: for plea, did not receive, &c. in satisfaction of the debt, 3. *Br.* 142.

Plea (to bill), that on the day of payment defendant delivered plaintiff six cows in satisfaction, which plaintiff accepted. Replication, issue on the delivery, 1. *Br.* 76. *Bro. R.* 169.

Plea, that plaintiff accepted of defendant a jewel in satisfaction of the debt. Replication, that he received the jewel as a pledge, and traverses that he received it in satisfaction of the debt, *Br. R.* 202.

Plea (to debt on two bonds) in bar to one, that he paid at the day; to second, that before the day, &c. he delivered to plaintiff so many quarters of grain, which plaintiff accepted. Replication, issue on payment to the first; to second, protesting that he did not deliver, &c.; for plea, did not accept, &c. in satisfaction, *Ro. Ent.* 196.

Plea to debt on bond; that defendant being bound with T: by agreement between T. and plaintiff, said T. with one R. delivered another bond to plaintiff for securing payment of money in discharge of the bond in which defendant was bound, which plaintiff accepted. Demurrer, *Ro. Ent.* 188. Like plea: Replication, did not deliver the bond, and issue, *Ro. Ent.* 234.

Plea (to debt on bond with condition); that A. and J. should pay plaintiff for the use of H. thirty-six pounds at a day certain. H. put himself apprentice to J. by indenture for seven years. J. before the day of payment and the end of the term of the apprenticeship discharged H. by H.'s consent, from his service for the residue of the term, and delivered to H. his indenture in full satisfaction of the said thirty-six pounds, which H. accepted. Demurrer, *Wi. Ent.* 186.

Plea to debt on bond for payment of twenty-five pounds; that after the day of payment defendant and one T: became bound by bill penal for payment of twenty-eight pounds, whereof twenty-five pounds were for the same debt, and as to three pounds for damages, which plaintiff accepted in *satisfaction* of the bond. Demurrer, *Bro. R.* 236. For securing payment gave a bond, *Cl. Aff.* 117. As to *mutuatus nil debet*, and plaintiff accepted two bonds in satisfaction of residue of debt, and issue on *accord*, *Ro. Ent.* 192.

Plea in debt, breach of licence, *Clif.* 148.

Plea Foreign Attachment

- Plea, *foreign attachment* in the mayor's court in London, replication thereto, no such custom; issue on the custom, and certified by the recorder in terms that there is no such custom; but that the custom is as set forth in the *Ra. Ent.* 157. *Vet. Int.* 113.
- Plea, *foreign attachment* in the sheriff's court of London, *Bro. R.* 231. Demurrer.
- Plea of foreign attachment in the court of the mayor of Exeter, and custom pleaded, *Bro. R.* 237.
- Plea, attachment in the sheriff's court in London, *W. Ent.* 158. *Vet. Int.* 163.
- Plea, attachment in the sheriff's court of London to the other part, tender, and *uncore priff*, and issue.
- Plea by *administrator*, attachment in the sheriff's court to the archbishop's ordinary. Demurrer, *Co Ent.* 14.

Plea—Illegal Consideration

- Plea, that bond was given on a corrupt agreement for a prosecution against several persons, and therefore void. On demurrer, plea held good, *1. Bro.* 173.
- Plea to debt on bond, that it was given in order for the plaintiff to withdraw a petition which he had presented to the chancellor against the allowance of a curfew; therefore void under 5. Geo. 2. c. 30. s. 11.

Plea—Tender.

- Plea, that on the day and place mentioned in the count the plaintiff paid the money, and that neither plaintiff, nor defendant received it. Replication, that neither plaintiff nor defendant received it. *1. Bro.* 173. Like plea, &c. *uncore priff*. Replication, that defendant received it. *1. Bro.* 200.
- Plea to debt on contract by law *indenter*, to part; to receive, and from that day always ready to pay the money. Plaintiff received the money, and for costs.
- Plea, *uncore priff*. *Estoppel*, that defendant appeared to the plaintiff, and offered to pay money due for rent; and that he received, and from that day always ready to pay the money. Plaintiff received the money, and for costs.

requested the money, which defendant refused to pay. Rejoinder, did not request, *Tbo* 159.

Plea to debt on *contract* by law *instant* as to part; to residue, that always from the time of the account rendered defendant was ready to pay, &c. and brings into court; and for costs says, that on a certain day he requested the money, and defendant refused. Rejoinder, that at the time of the request defendant offered, and plaintiff refused to receive, &c. Surrejoinder, that defendant did not offer.

Plea, that defendant was always ready to pay, &c. which plaintiff receives in court, *Pl. Gen.* 255. *Ra. Ent.* 159. *Vet. Int.* 126

Plea, as to part of the debt, that he tendered at the day, and *uncore prist*, *Pl. Gen.* 256. Did not tender, *Ibid.* 331. Tender of rent at several days, and *uncore prist*, *Dyer*, 82. **Plea**, always ready to pay the money, which plaintiff receives in court, *Wilk.* 269.

Plea, always ready. Replication, that plaintiff requested and defendant refused, and traverse that defendant was prepared, and issue, *Pl. Gen.* 317. *Hanf.* 110.

Plea, tender at the day for the space of one hour before sun-set. Replication, traversing, and issue, 2. *Mo. Intr.* 334. Tender to part, and before the residue became writ was sued out, protest of money into court. Replication on the tender, and issue. *Bro. Vad.* 504.

Plea (to debt on bond with condition to pay annual rent at four feast days, or within ten days), that defendant on a certain tenth day, after a certain feast day, was ready to pay, but that neither plaintiff or any one for him was ready there to receive, nor did any one demand the said rent. Replication, protesting, &c. for plea, that plaintiff at a day certain for the space of, &c. was ready, and demanded, &c. Rejoinder, not ready, and traverses the request, and issue, *Tbo.* 181. 3. *Br.* 170. *Alb* 220.

Plea, tender with an *uncore prist*. Replication, plaintiff accepts the money, protesting that he did not tender, and pleads to have the costs, for that he requested, and defendant refused. Rejoinder on the request, and issue, 2. *Mo. Intr.* 236. *Ra. Ent.* 159. *Vet. Int.* 126. 3. *Br.* 132. Tender, and *uncore prist*, *Bro. Vad.* 213. 1. *Inst. Cl.* 341. Replication, *Tbo.* 426.

Plea to bond, with condition to deliver lead within two days), that he tendered the lead, and no person was ready to receive. Replication, on *that* day did not tender, *Alb.* 244.

Plea (to debt, &c. for twenty marks) as to twenty-six shillings and eight pence defendant was ready to pay; as to eighteen marks, residue, pleads two receipts, and issue, and says nothing further as the said twenty six shillings and eight pence, *Ra. Ent.* 179. *Vet. Intr.* 202.

Plea (as to part of the debt) *foreign attachment* in London; to the residue, always ready, and protest in court. Replication, that on such a day plaintiff demanded the money, which plaintiff refused to pay. Rejoinder, at the time of the request defendant offered to pay and plaintiff refused. Surrejoinder, that he did not offer, *Co. Ent.* 141.

Plea, tender in money called pollards then current, which plaintiff refused, and *uncore prist*, *Dyer*, 82.

Plea as to part of the debt, *nil debet*; as to the residue, always ready. Plaintiff receives the money, and for costs he requested. The rejoinder on the request, *Alb.* 246.

Plea—Bye Law, (26):

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174. Plea (to debt on bye law for not accepting the office of sheriff of London), that defendant was not a fit and able person. Replication, taking issue. Rejoinder, that defendant is wholly unable to discharge duties.
176. defendant is wholly unable to discharge duties.
215. Plea (to debt on bye law for not attending vintner's company and accepting livery); 1st, *nil debet*; 2d, that there are twelve livery companies in London, and it was ordered at a lord mayor's court, that no person should be called upon to take the cloathing of every company without an estate of one thousand pounds, which defendant at the time, &c. had not; bye law held good, plea bad. 1. *Burr.* 235.

Plea—Fines.

Plea (to debt by master, warden, and company of shipwrights, for a fine imposed on defendant for non-appearance, &c.) that defendant was a freeman of the city of London of the fraternity of shipwrights, that he held a court of the government of the company, and as one of the fraternity ought to be attending there; and that he denied himself to be a member of this company, and prays judgment; and demurrer, *Ro. Ent.* 207.

Plea (to debt by master and warden of taylor's, for fine imposed on defendant for refusing to be of the livery), confesses that he was admitted free of the company, but by the constitution no freeman is held to observe the laws or penalties assessed upon him unless he is sworn to observe the ordinances of the said company, *Wi. Ent.* 253.

Plea (to debt by mayor and good men of, &c. for breaking a bye law), 13. C. 2. that no person shall be elected to any office who within one year next before such election has not taken the sacrament; that defendant had not, and was inelegible, and election void. Demurrer, 2. *Vent.* 144.

Nil debet, *Ajib.* 177. *Nil debet per legem.* Demurrer, *Ra. Ent.* 151. *Ver. Int.* 64. Wager of law, *Co. Ent.* 119.

Plea—ESCAPE, (27)

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228. Plea to debt on escape of prisoner in execution; 1st, *nil debet*; 2d, fresh pursuit and recaption; 3d, that prisoner escaped privately, and voluntarily returned before exhibiting, &c. and that defendant hath him still in custody.

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229. Plea (part of) to an action of debt against the marshal of the B. R. prison, that defendant took all possible care, but the prisoners confederated and privately got possession of offensive weapons, with which they *assaulted the keepers, and violently* escaped.
236. Plea to debt on escape, that prisoner was arrested by defendant in execution, and *removed by habeas corpus* to
237. B. R. Replication, that after he was committed to
238. the Fleet he escaped. Rejoinder, that defendant permitted the escape by virtue of 20. and 21. G. 3. passed since the riots. Surrejoinder, that it was by the said acts enacted, that defendant should return into actual custody, and that he did not. Rebutter,
240. he omitted to surrender. Surrebutter, and issue on the omitting to surrender.
241. Plea (to declaration against marshal of K. B. for suffering a prisoner to escape who was confined at the suit of plaintiff); 1st, *nil debet*; 2d, escape and return privately, and is still in defendant's custody; 3d,
243. fresh pursuit and recaption. Replication to 2d, protesting as to sufficiency of plea; replication, that prisoner escaped through defendant's neglect traverse of escape without his knowledge, Rejoinder, and issue on the traverses.
246. Plea (to debt on escape); 1st, *nil debet*; 2d, that defendant's is a patent office, held at the will of the king, that it of right ought to be repaired by government and not by defendant; that the prisoner conspired with two other foreigners, and by means of a rope-ladder thrown over the wall to a neighbouring
246. house, effected his escape, without any negligence of defendant who made fresh pursuit, but parties escaped to France. Replication to *nil debet* and issue, 2d,
250. that defendant *de injuria, &c.* permitted the escape; traversing the negligence. Rejoinder, taking issue on the traverse.
- 252.

Plea, with protestation, that he did not take the prisoner, *Upper B. P.*

Plea, *nul tiel record, Ra. Ent. 169.* That caption was made for another cause, and traverses the cause in the declaration, *Ra. Ent. 172. Vet. Int. 128.*

Plea, that auditors did not commit to prison into custody of the gaoler of C. there to be kept, &c. 1. *Bro. 150.*

Plea, prisoner taken on fresh pursuit, 1. *Bro. 159. Tho. 143. 151.* Replication and rejoinder, *Tho. 347. 3. Co. 52.*

Plea, similar replication, protesting, &c. for plea that defendant voluntarily permitted prisoner to go at large, and traverses fresh pursuit, and issue, *Vid. 195. 198.*

Like plea to demurrer, *Wi. Ent. 172.*

Plea, that he did not permit prisoner to go at large, and issue, 1. *Bro. 175. Pl. Gen. 237. Cl. Aff 83.*

Plea by marshal, that by rule of court *habeas corpus* was directed, to have the body, &c. Replication, *mutuatus* declaration, and traverses that defendant had the body before, &c.; issue and traverse, 2. *Bro. 61. Her. 318.*

- Plea, that *sheriff* discharged the prisoner out of his custody by virtue of a writ of *superjudeas*, *Tbo.* 144.
- Plea by *marjial*, that prisoner was committed to him in execution, and he had and still has him in his custody, and traverses that he permitted prisoner to go at large, and issue, *Ro. 1 nt.* 225.
- Plea, statute of limitations to declaration in debt on escape, 1. *San.* 35.
- Plea by warden, *non debet.* and issue, *Lev. Ent.* 58. Special verdict, *nil debet*, 3. *Co.* 68. Did not permit to go at large, 5. *Co.* 89.
- Plea, that prisoner broke prison and was retaken on fresh pursuit, *Re. Dec.* 204. Replication, protesting that he did not break prison, for plea that defendant voluntarily permitted him to escape. Rejoinder, maintains his plea, and issue, *Br. Vad.* 5 6.
- Plea, did not take nor arrest in debt on escape, *Ibid.* 455.
- Plea, that former sheriff permitted prisoner to escape, *Dyer*, 66.

ARTICLES OF AGREEMENT. (28)

Pleas of Tender, Payment, Performance, &c.

(See Indentures—Leases—Pleas *post.*)Vol.
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283. Plea of tender, and expences and proceedings about which the agreement was made did not amount to fourteen pounds, but only three pounds, which defendant offered plaintiff. Replication, that the expences amounted to more, to wit, fourteen pounds.
284. Offered plaintiff. Replication, that the expences amounted to more, to wit, fourteen pounds.
286. Plea, 1st, *payment*; 2d, that plaintiff had nothing in the three messuages that could enable him to convey to defendant, &c. Replication, setting forth the title to the two messuages, that he is seised in fee as to the other messuage, that it is copyhold, and sets forth a grant from the lord. Rejoinder, that the messuage would not be entitled to the allotments. Demurrer to rejoinder.
291. Plea in bar, that defendant was ready and willing, and offered a complete title, but plaintiff desired them not to produce it, and declined carrying the agreement into execution, saying, he would not pay the purchase money. Replication, protesting, that defendant was not ready or offered a complete title; for plea, that plaintiff was ready to complete the purchase according to agreement. Rejoinder, taking issue on the traverse.
292. Plea of *performance* of articles.
313. Plea, 1st, *non est factum*; 2d, performance; 3d, that architect directed alterations, but neglected to superintend them, which occasioned defendant non-performance. Replication, taking issue on the pleas.
315. Plea in bar, by an attorney, in an action brought by an attorney, a *licence* to transact business charged in the declaration. Replication, denying the licence.

Plea, that plaintiff could not make a good title; 2d, that plaintiff cut down a quantity of timber, whereby plaintiff disabled himself from fulfilling, &c. Replication,

Replication to plea to declaration (on penalty for breach of covenant contained in articles of agreement for supplying an hospital with ox beef) by governor of Greenwich Hospital against the contractor, for rendering beef of an inferior quality than was agreed for, whereby he forfeited ten pounds.

to debt for penalty on articles of agreement, that plaintiff did not convey to defendant the premises mentioned in the agreement, and that plaintiff had no estate in the premises,

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that plaintiff for the better instruction and improvement of his apprentice, sent him with other able surgeons to B. in India, where he practised all the time. Demurrer, *Wi. Ent.* 270.

that apprentice, the plaintiff, or his counsel, did not devise any release. Replication, protesting that he did devise release; and for plea, plaintiff's counsel devised assurance conveyance in the writing mentioned, which were ordered to seal, and defendant refused. Demurrer, *Tbo.* 189.

(to declaration for assuring and delivering writings), that defendant had not given reasonable notice to deliver, &c. and that plaintiff's counsel did not devise any assurance. Replication, protesting, &c. pleads that reasonable notice was given, *Ent.* 197.

(to debt for payment of money in two days), payment on the first day; to residue, that plaintiff did not appoint any person to whom defendant could assign the payment to them, *Wi. Ent.* 255.

to articles, that defendant, deputy searcher of a port, should act and indemnify principal. Replication, that he violently resisted plaintiff to enter ship and search for horses endeavoured to be unlawfully transported by a stranger. Rejoinder, and issue, *Cl. Aff.* 368.

performance, for non-payment of money, *Ro. Ent.* 228.

(after oyer and performance), general. Replication. Rejoinder, and traverse, 2. *Bro.* 64.

&c. to articles of agreement, of performance between two executors, *Bro.* 77.

action to like, &c. protesting, &c. for plea, that he did not deliver statute staple in defendant's custody to plaintiff, according, &c. Rejoinder, that the statute staple was not in defendant's custody, and issue, *Tbo.* 141.

Plea—AWARD, (29) (See Arbitration Bond, Pleas, *post.*)

that he made a bond for payment of the money. Replication, that he did not, *Pl. Gen.* 277.

statute of limitations, that action did not accrue within six years, 2. *San.* 62. Demurrer to declaration on award, *Ibid.* 128. 130.

that he made no award, *Co. Ent.* 159. *Nil debet per legem, Vet. Int.* 61.

nil award. Replication, that arbitrators made their award, and protesting that

- that defendant did not perform any thing; for plea, did not pay the money. Rejoinder, and after oyer of the award, demurrer, *Wi. Ent.* 249. Replication, by award made, and breach assigned for non-payment of money. Demurrer, *Ibid.* 309. 315. 317. 2. *Vent.* 220. 240. *Lev. Ent.* 40. Replication, award made between plaintiff and others, and defendant and others did not perform the award in any thing. Rejoinder, that they made no such award, *Ra. Est.* 154.
- Plea, *nul award*. Replication, award made and prepared, and offered to be delivered to defendant on a certain day, but neither defendant nor any for him came on the day to receive; and breach assigned for non-payment of the money. Rejoinder, that award was not prepared or offered to be delivered. Demurrer, 2. *San.* 184. Judgment for plaintiff.
- Plea, that arbitrators made no award in writing or by parol, and that they nominated for an umpire one F. who made no award within the time limited. Replication confesses that arbitrators did not make their award, and that they nominated F. umpire, who refused, and thereupon arbitrators nominated one C. umpire, who having taken upon himself the burthen of the umpirage, by parol ordered that defendant should pay plaintiff ten pounds, and plaintiff and defendant should seal each to the other general releases; and breach assigned for non-payment. Demurrer special, 2. *Vent.* 110.
- Plea, no award made. Replication, sets out the award to pay money, and defendant to deliver possession of a house; defendant had notice and plaintiff ready at the day to pay, and no person; ready to receive, and avers defendant did not deliver possession. Demurrer, *Lev. Ent.* 42.
- Plea, that arbitrators made no award, nor elected any umpire. Replication, award made, protesting that plaintiff did not perform any thing; for plea, did not pay, 2. *Bro.* 102. 104.
- Plea, no award, *Tho.* 404.
- Plea, that the several arbitrators did not, nor did umpire make any award. Replication confesses the several arbitrators made no award, but that the umpire made umpirage; and breach assigned among others for non-payment of the money; issue, that he did not make, &c. *Vid.* 190. *Clif.* 142. Demurrer, 1. *San.* 62. *Clif.* 137.
- Rejoinder, that umpirage was revoked, and issue, *Clif.* 140.
- Plea, offered to pay the money, and tender of a general release, and plaintiff refused to accept them. Replication, that at another time he demanded the money and then defendant refused. Defendant demurs, *Lev. Ent.* 44.
- Plea, that arbitrators awarded that each of the parties on request should seal and deliver to each other a lawful release, which plaintiff did not request. Replication, that he did. Rejoinder and issue, *Tho.* 204.
- Plea, that arbitrators made no award to be delivered to the parties at S. Replication, that two arbitrators made their award, and protesting that plaintiff had kept and observed all things, &c, and defendant none; for plea, non-payment. Demurrer, and judgment for plaintiff, 1. *San.* 164.
- Plea, that arbitrators made their award to pay money and deliver general releases, which defendant did. Replication, did not pay, and issue on the tender; but rejoinder by way of *estoppel*. Demurrer, 1. *San.* 324.
- Plea, that arbitrators made their award of several things to be done, and payment of money on several feast days, which defendant did. Replication, protesting that he did not pay any money; for plea, that did not pay on a certain day, and issue on payment, *Pl. Gen.* 204.
- That arbitrators made their award, and plead special performance. Replication, that defendant did not surrender the twelve acres of land and one close of pasture, and issue, *Pl. Gen.* 297.
- Plea, award made *purs darrein continuance* pleaded at the assizes. Replication, *nul award*, and issue, *Br. R.* 181.

Plea of payment to debt on award, *Bro. Met.* 184.

Plea, *nul award*. Replication confesses, but shews an award by the umpire, and assigns a breach for non-payment of the money. Demurrer, and judgment for defendant, *Re. Dec.* 247.

Replication to *nul award*, an award made to pay, &c. and defendant did not, &c. *Clif.* 139. 142. Demurrer, *Ibid.* 144.

Plea, that an award for payment of money to a stranger for the use of plaintiff is void, *Ibid.* 139. Replication to *nul award*, an award to pay money at the shop (*scrivener*), with averment that he would have paid it, *Ibid.* 143.

Plea, *nul award*. Replication, that arbitrators made such award, but does not assign breach. Demurrer, 3. *Br.* 145. *Cro.* 285. Replication by award, and breach. Rejoinder, *nul award*, omitting (such), *Dyer*, 216. Replication, that defendant discharged arbitrators. Demurrer, 8. *Co.* 80.

That arbitrators made no award, and that C. one of the arbitrators, died within the time; and defendant and others diligently endeavoured to get arbitrators to make their award. Replication, protesting that they did not endeavour; for plea, that C. was alive on the day, and traverses dying before, *Ra. Ent.* 154.

That C. and M. who was not his counsel, made the award, which defendant performed, and traverses that C. and his counsel made the award. Replication, that C. and J. and L. his counsel, made the award, and protesting, &c. for plea, that defendant entered into the lands. Rejoinder, that C. and the said J. and L. made no award, *Ra. Ent.* 156. *Vet. Intr.* 122.

Plea, that arbitrators made no award. Replication and issue, *Dyer*, 243. And demurrer, *Co. Ent.* 127. *Mar.* 275. 283.

Plea, protesting no award made; that they did not deliver any award. Replication, shows award and breach. Demurrer, *Dyer*, 243.

Plea, neither arbitrators or umpire made any award. Replication, award made by arbitrators, and breach assigned for non-payment. Rejoinder, *nul award*, *Her.* 313.

That arbitrators made no award or elected umpire. Replication, that arbitrators could not agree, but they chose umpire, who made the award, and defendant did not pay on request. Rejoinder as before, that arbitrators made no award, and traverses choosing umpire, and issue, *Vet. Int.* 236.

That arbitrators made their award of several things to be done, which defendant did. Replication, did not pay in satisfaction of the trespass, *Ra. Ent.* 155.

Replication, protesting defendant did not perform any thing; for plea, did not carry the stones, *Ibid.* 155.

Plea, award, that he should not plough the land; and to residue, performance. Replication, that he did plough the land after award made, *A/b.* 242.

That arbitrators made their award in *hæc verba*; and as to several articles, performance specially; and as to others, performance generally. Rejoinder and issue, *Ra. Ent.* 155.

That arbitrators awarded plaintiff to pay defendant twenty shillings, and plaintiff should have from defendant (*femas*) of fish, which defendant tendered, but plaintiff refused. Replication, that arbitrators awarded him to deliver four *femas* fish and other things, which defendant did not, and traverses the award as defendant alleges, *Ra. Ent.* 155.

That arbitrator before the day made the award, which defendant is ready to perform if plaintiff, &c. Replication, that arbitrators made another award, and traverses award to be as defendant alleges, 33. *Hen.* 6. c. 28.

That arbitrators awarded defendant to pay plaintiff forty shillings, and a fine to be assessed in the marches of Wales, which is not yet assessed. Replication, that fine was assessed, and for plea, did not pay the forty shillings, 3. *Br.* 147.

That arbitrators made their award in writing under their hands and seals, ready to be delivered to the parties, and awarded, &c. as appears by the writing in court, and

and performance generally. Replication, did not discharge plaintiff of a forfeiture of recognizance pursuant to the award. Rejoinder, that he did, and shows how, *Her.* 305.

Plea BILLS PENAL. (30) (See Plea to Bonds, *post.*)

- Plea by acquittance**, mentioning that the bill could not be found, and averment that it is the same bill. Replication, *non est factum*, *Bro. R.* 201.
- Plea, judgment recovered** in C. B. removed into B. R. by writ of error, and there remains unreversed, 2. *Mo. Intr.* 257.
- Plea, judgment recovered** in the court (*de gillo*), *Clif.* 186. Replication, *mul tiel record*, *Ibid.* 187. To two bills of same date, *per minas*, *Her.* 301. *Pl. Gen.* 234. *Cl. Aff.* 72. *Tho.* 424.
- On bill, per minas.** Replication, voluntarily, *Pl. Gen.* 343. *Br. R.* 172. *Cl. Aff.* 72. 313. *Bro. Vad.* 501
- Plea of infancy** to debt on bill, 1. *Br.* 88, *Wilk.* 270. *Ma. Intr.* 187.
- Plea of infancy** concluding to the country to *mutuus*, on bill. Replication, that defendant was indebted to plaintiff in money for medicine, and made his bill to secure payment. Rejoinder, that he was not indebted for medicines, *Ash.* 242.
- That after delivery** of the bill the plaintiff interlined these words, &c. *Bro.* 199, *Mo. Intr.* 190. *Pl. Gen.* 259.
- That bill was a new writing** and interlined in these words, *Wilk.* 277. By delivery and interlineation in an indorsement of a writing, 3. *Br.* 135.
- Plea, that he acknowledged** himself to owe M. eighteen pounds and M. in his lifetime after delivery, erased the bill and put the letter L behind the letter X, and so made the sum LXVIII. Replication, traverses that M. erased the bill after delivery, *Mo. Intr.* 189. *Bro. R.* 260.
- Plea, that he agreed** to make the bill with a condition, *Ra. Ent.* 180. *Vet. Intr.* 17. 42. *Pl. Gen.* 260.
- Plea, defalcance**, that if plaintiff or any other should sue defendant, by which defendant should be put to prove that he was not concerned with one E. bill to be void, and shows a suit was brought in chancery against him by E. but does not shew in his own plea that plaintiff sues on the bill in *defalcance* mentioned, *Wi. Ent.* 237.
- Plea, payment, to bill, at the day**, *Cl. Man.* 259. *Bro. Vad.* 212.
- Plea, a due composition**, by which defendant and other creditors granted to accept seven shillings in the pound, and give a release on payment thereof. Defendant tendered the money which plaintiff refused, 1. *Bro.* 190.
- Plea, after bill given** defendant and other creditors gave him a letter of licence for three years, and granted that if any of them should sue or molest defendant and not release him within one day after request, that then the deed should be considered a release, *969.* 169. *Clif.* 247.
- Plea, that on account** defendant was indebted to plaintiff in thirty-two pounds, besides eighty pounds on bill, and it was agreed between the parties that defendant should enter into a recognizance, in nature of statute staple, for payment of both on a certain day, which he did, and plaintiff accepted and defendant afterwards paid. Demurrer, *Wi. Ent.* 171.
- Plea (bill, if plaintiff should not consider** a good title to two acres of meadow before a certain feast day), that defendant, before the feast, enfeoffed plaintiff of the meadow, and plaintiff considered that the title was good, *Pl. Gen.* 254.
- Plea (to bill for payment of money when God should enable him**, that it is not in his power to pay, *Ash.* 202.

Plea

Plea (to bill for payment of five pounds if he should go or run with a certain number days and hours from one place to another), that he did not go, 3. *Br.* 127.

Plea (to bill for payment of foreign money), that he was ready on the market day to pay English money to the value if plaintiff had been there, and would deliver the bill, and traverse that the foreign money amounted to the sum in the declaration, and issue, *Ra. Ent.* 158.

Plea to bill, *payment* on the day; to *emisset, nil debet per legem* on the day, *Han.* 74:

BONDS for PAYMENT of MONEY. (31)

Plea—By the Parties themselves. (32)

(See Executors and Administrators, Heirs and Devisees, Pleas by, *post.*)

Set off. Release. Payment. Durefs. Bankruptcy.

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405. Plea, craving oyer of the bond, which is with a special condition to maintain and instruct plaintiff during her infancy till marriage, and then to pay two hundred and fifty pounds, and *solvit post diem*, according to the statute. Replication; rejoinder,

436. Plea, that one L. M. and one R. M. joined with defendant, and after paid the money (to debt on bond by American loyalists), plaintiff and defendant sued

447. here separately. Replication; rejoinder; surre-

484. joinder; rebutter; demurrer to rebutter.

489. Plea of *set off* to an action upon a bond or indenture.

490. Plea, that defendant, after making the bond, and after the same became forfeited, add after cause of action accrued, became *bankrupt*.

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398. Plea in abatement to a debt on bond, that two were jointly bound, and only one named in the writ and declaration.

420. Plea to debt on bond, that the money due on the bond was lent to a third person, and the bond made to the plaintiff as his trustees, that she is dead, and indebt-

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ed to the defendant in more than the amount which he offers to set off.

430. Plea of *non est factum*; *bankruptcy* in plaintiff.

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Plea, <i>solvit ad diem</i> , and <i>solvit post diem</i> ,	-	Mor. Pr. 533
Plea of <i>durefs</i> . Replication, that defendant defrauded plaintiff of his goods, and being in custody for the same, voluntarily made and executed the writing-obligatory, with the said condition for the payment of the value of the goods. Rejoinder, that defendant made and delivered the writing-obligatory by <i>durefs</i> of imprisonment,	-	<i>Ibid.</i> 534. 536
Replication to a plea of <i>durefs</i> , that defendant was at liberty, and of his own free will made and delivered said writing-obligatory.	-	<i>Ibid.</i> 537
Plea, (to debt on bond, for non payment of several bills of exchange, conditioned to be paid with interest from the day of the date, by way of penalty, if the said bills were protested) that before suing forth the original writ, the defendant, upon producing such bill with the protest, did well and truly <i>pay</i> , &c. together with interest from the day of the date, &c. and that the bills were never presented for acceptance. Replication, that bills were presented, and protested for non-payment, and issue. Suggestion entered that said several bills were not duly paid, and that the bills were duly presented and protested for non payment,	-	1. H. Bl. Rep. 227
Plea to an action of debt on bond, with condition to surrender copyhold lands, that copyhold was surrendered, and that I. afterwards held them without any interruption from defendant. Replication, that the estates were surrendered	-	

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to the use of plaintiff for life, remainder to L. S. and Jane his wife, and that Jane entered into her estate for life.	
Demurrer, and joinder.	2. Mod. Ent. 231
Plea to debt on bond, <i>non est factum</i> , and tender as to part,	5. T. R. 47
Plea of duress of imprisonment,	Pl. Aff. 452
Plea to debt on bond, that obligor was <i>non compos mentis</i> .	
Replication thereto,	2. R. Pr. C. B. 37
Plea, delivered as an <i>escrow</i> upon condition. Demurrer thereto, with causes,	2. R. Pr. C. B. 39
Plea (to debt on bond, given by an incumbent to the patron on presentation to reside on the living, or to <i>resign</i> if he did not return to it after notice, and not to commit waste, &c.) 1st, that he had resided at the curacy house, and had not committed or suffered waste; 2d, that after appointment, he had a general licence to reside elsewhere. Replication, 1st, that the defendant voluntarily absented himself, and that plaintiff gave him notice to resign; 2d, that plaintiff countermanded the licence. Demurrer, and joinder,	4. T. R. 98
Plea to debt on bond, given in pursuance of 4. Geo. 3. c. 33. where the surety was under terms by a judge's order to plead issuably, that error was depending in an action against the principal, a trader having privilege of parliament,	2. H. Bl. Rep. 372
Plea of <i>duress</i> to debt on bond,	1. R. P. C. B. 164
Plea of payment by one before day, to debt on bond. Special demurrer thereto for not pleading it as a payment on the day, the other being matter of evidence only to prove that issue, and for that plea is not issuable,	Lill. Ent. 128
Plea of <i>duress</i> of imprisonment to a bond,	Pl. Aff. 452
Plea to debt on bond, given by a member of Gray's inn, for the benefit of the Society upon his admission. Conditions performed. Replication special, and shews breach, <i>not paying his pensions</i> . Demurrer. Judgment for plaintiff,	1. Ld. Raym. 594
Plea to debt on bond, by husband and wife, that by articles of agreement between the wife, her sister, and the defendant, the interest of the money was to be paid to one of the sister's, upon an event which had happened,	5. T. R. 250
Plea to debt on bond, that there was justly due to plaintiff the sum of , and no more, and <i>set off</i> . Replication, that there is justly due and owing a larger sum. Demurrer,	3. T. R. 65
Plea of <i>set off</i> on a bond from a bankrupt to defendant, to an action brought by his assignees,	Wils. Rep. 155
Plea to debt on bond, that it was given before the independence of America, that defendants estate both real and personal was confiscated, as being an enemy, and subject to the payment of his debts. Replication, that at the time the bond was given, the State of New York, where the bond was given, was not one of the United States, but	

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- was one of his majesty's colonies in open rebellion. Rejoinder, that at the treaty of peace with the Americans all confiscations were made valid, and that the States of America exercise legislation and government independent of the government of this country, and that the law of confiscation is still in force, - - - - -
- Plea of *set off* to debt on bond, for payment of wheat, and other goods. Replication, not indebted, - - - - -
- Plea to debt on bond against defendant, whom plaintiff took as a surgeon assistant, with condition not to exercise the profession within certain limits, that without any misconduct in defendant, plaintiff dismissed defendant, that defendant lawfully served an apprenticeship; wherefore he practised, &c. and that the agreement was void in law. Replication, that defendant was guilty of misconduct, for which he was dismissed. Special demurrer, with causes, - - - - -
- Plea to debt on bond, with consideration that obligee would take obligor into her service, if defendant would not exercise the trade within half a mile of Drury-lane, or assist or instruct any other person; that she did not carry on the trade within half a mile, &c. Replication, that she instructed one D. to exercise said trade within half a mile, - - - - -
- Plea, *prior action* brought in C. B. for the same debt, to an action brought in B. R. Replication, *nul tiel record*. Rejoinder and issue, - - - - -
- Plea of *payment* after the dry, to debt on bond, by the wife of the obligor, deceased, - - - - -
- Similar plea to debt on bond and bili, *Cl. Aff.* 150.
- Plea, payment on the day. Replication, and issue, *Cl. Man.* 250.
- Plea, that the principal person paid the first and second payment, and third is not due. Replication, issue on the first, *Bro. Vad.* 177, 221.
- Plea, that plaintiff levied debt and damages by *scire facias*, *Clift.* 147.
- Plea, that money and salt in conditioned mentioned *were delivered*, 1. *Br.* 83; 3. *Br.* 116.
- That defendant *delivered* the barley on the several days in the condition mentioned. Replication, did not deliver one quarter on a day certain. Rejoinder, and issue, 2. *Br.* 110.
- Plea, that defendant *paid* and *delivered* money in condition mentioned, *Bro. R.* 173.
- Plea, delivery of four quarters of oats, and ten of barley, and paid the money between the feast of M. and N. Replication and issue, that he did not deliver, *Br. R.* 192.
- Non est factum* to bond, wager of law to *emisset* which defendant perfected, *Ast.* 191.
- That there was a defeasance for *payment* of money at several times, and that he paid, &c. Replication, did not pay on that day, and issue, *Ra. Ent.* 18. *Vet. Int.* 74.

1. H. B. C. Rep. 116

2. R. Pr. C. B. 19

5. T. R. 116

2. Ld. Raym. 1456

Lill. Ent. 479

Ibid. 480

Plea

Plea to debt, articles of defeasance made between plaintiff and defendant, and two others, for whom defendant granted plaintiff an annual rent of eighty pounds during the life of one E. and if defendant should punctually pay the said annual rent, bond to be void, and defendant paid the rent on a day certain. Replication, protesting, &c. that defendant and another only, without the third, become bound, and traverse that defendant and two others were bound. Demurrer special, and traverse held bad, *Wi.* 207.

Plea to debt on bond for *payment at the day*; *payment*, *Rob. Ent.* 200. *Pl. Gen.* 288, 326, 337, 334. *Bro. Vad.* 220. *Cl. Aff.* 82. 1. *Inst. Cl.* 215. *Ra. Ent.* 185. *Vet. Int.* 18. at two days of payment on two bonds. Plea, *payment at the several times, and issues*, *Ro. Ent.* 221. *Wi. Ent.* 287. *Bro. R.* 192. *Pl. Gen.* 258, 328, 330. *Bro. Vad.* 219. *Tbo.* 434, 435. *Clif.* 147. *Mo. Ent.* 178. *Bro. R.* 222. *Bro. Met.* 243. *Cl. Aff.* 118. *Ra. Ent.* 184, 185. *Vet. Int.* 18. *Ra. Ent.* 170. 185. 3. *Br.* 115.

Plea, *payment of all the money hitherto to be paid*, *Ra. Ent.* 185.

Plea to three bonds severally, after oyer of each several condition, *Aff.* 219. Replication, and three several issues on non-payment severally, *Mo. Ent.* 202.

Plea, (condition was for payment of money on plaintiff's return from Rome with a certificate) that he was not there molested, &c. and did not bring the certificate. Replication, and issue, 3. *Br.* 143.

Plea, that plaintiff received annually eight shillings, for four years, for the farm of lands, and that defendant at the end of the term was prepared to enfeoff plaintiff. Replication, protesting that he did not receive *any* money for plea, did not receive in the last year, *Ra. Ent.* 182.

Plea to debt on bond, for money to be paid on request; that plaintiff did not request, *Bro. Vad.* 157. *Han.* 109.

Plea, condition for payment of twenty pounds at the end of three months, when he should attain the age of twenty-one years; *payment*. Replication and issue, *Br. R.* 192. 3. *Br.* 117.

Plea to debt, several days of payment; *payment at two days*, and the other is not yet incurred; issue, did not pay *at the day*, *Mo. Int.* 178. *Han.* 108.

Plea, *payment on the two days*, and before residue was due, plaintiff exhibited his bill, and like issue, *Br. R.* 222.

Plea, *payment at three days*, but before the third payment was due, plaintiff sued out an original. Replication, and issue on payment, on the third day, *Pl. Gen.* 246.

Plea to debt on bond, made to the chamberlain of London, that plaintiff *was threatened* by the mayor of London *with imprisonment*, if he did not execute the bond, *Tbo.* 209.

Plea, *per minas* to debt on bond, *Bro. Vad.* 501. 1. *Inst. Cl.* 217. *Hanf.* 106. *Ra. Ent.* 150. 324. *Wilk.* 272. *Vet. Int.* 17. 22.

Plea to debt, by widow, that plaintiff was *covert* at the time of executing the bond. Replication that she was *sole*, *Pl. Gen.* 350, 318. *Ra. Ent.* 168. *Vet. Int.* 74.

Plea of infancy, *Ro. Ent.* 227. *Pl. Gen.* 334. *Mo. Int.* 186. *Cl. Aff.* 76. 1. *Inst. Cl.* 216. *Tbo.* 427. *Ra. Ent.* 163. *Vet. Int.* 18.

Plea, infancy. Replication, that defendant was indebted to plaintiff in fourteen pounds for *necessary* cloathing, and made his bond to recover the payment. Rejoinder, that bond was not given for payment of money, but necessary cloathing, *Mo. Ent.* 215.

Plea, *duress* to debt on bond, 2. *Bro.* 99. *Pl. Gen.* 343. 2. *Mo. Ent.* 233. *Bro. Vad.* 214. *Cl. Aff.* 77. 1. *Inst. Cl.* 216. *Ra. Ent.* 250. *Vet. Int.* 18. *Aff.* 218. on several bonds, 3. *Br.* 171. Plea, and replication, that defendant was indebted to plaintiff in eighteen pounds; and that plaintiff procured him to be arrested by

warrant on *latitat*, *Assb.* 248. Replication, that defendant was committed to the Fleet, in execution, at the suit of the plaintiff, who gave *bond* for the payment, and traverses *durefs*, *Id.* 249.

Plea, *durefs*. Replication, *at large*, *Bro. R.* 200. *The.* 426. *Hanf.* 106.

Plea, conditions performed to bond *non est factum*, to bill, wager of law to account, *Ra. Ent.* 170.

Plea, conditions performed to bond, with conditions of payment at several days. *Non est factum* to bill; *nil debet per patriam* to the *emisset* and *mutuatus*, *Vet. Int.* 233.

REPLICATION to plea of privilege of parliament pleaded to debt on bond, *Bro. Met.* 217.

Plea to debt on bond, that one E. and defendant were bound to said plaintiff in said debt, E. died, and plaintiff recovered judgment in B. R. on bond, against *administrator* of E. and took him in execution, who being in custody of sheriff, satisfied plaintiff, and that sheriff, with plaintiff's consent, *permitted him to go at large*. Replication, protesting, &c. that he *did not permit administrator to go at large* with *plaintiff's consent*. Tenders issue, and demurrer, 2. *Bro.* 62.

Plea to debt on bond, reciting that defendant, with two others, were bound at defendants request to plaintiff in three several bonds, for the sum of fifty pounds severally; plaintiff recovered on the two bonds against one, and in consideration of one hundred and eighty pounds in hand, paid by him, *released* him of all bonds. Replication, after oyer of indenture, in which was a proviso that he should not permit the other defendant to have the deed to take any advantage of it, reciting also an order of Chancery, made by defendant's consent to pay the money on the bond to plaintiff. Demurrer, judgment for plaintiff. *Wi. Ent.* 291.

Plea, *release* to the other obligor, who was bound in the same bond, 2. *Mo. Int.* 234. *Bro. Vad.* 503.

Plea, release of all actions to obligor, who died, *Bro. Met.* 249.

Plea, *payments before* the day, and plaintiff *released*, *Cl. Aff.* 129.

Non est factum to first bond, condition performed to the other, *Ra. Ent.* 182.

Plea to debt on bond by the late prior and convent, that prior induced the seculars to go into the capital mansion, and imprisoned them till they made the bond, and issue, *Ra. Ent.* 251. *Vet. Ent.* 109. 126.

Plea to debt on bond, against mayor, sheriff, and corporation, that the mayor was imprisoned until the sheriff and corporation made the bond. Demurrer, *Ra. Ent.* 251. *Vet. Int.* 67.

Plea, *release*. Replication, *durefs*, *Ra. Ent.* 250.

Plea to debt on bond, *Wi. Ent.* 202. *Pl. Gen.* 333. *Mo. Ent.* 187. *Ra. Ent.* 160. 180. *Non est factum* of testator, 10. *Co.* 120.

Plea to debt for eight hundred pounds after oyer of bond, on which defendant says, that the bond does not warrant the writ, for that in the bond are these words, *ostin gentam*, which are no signification of any sum. Judgment for defendant, with costs, 3. *Br.* 150.

That defendant *paid* the money due on bond, and defendant delivered to him a writing in the name of an acquittance, and then took it away, and *non est factum*, 1. *Bro.* 198. *Ra. Ent.* 180. *Vet. Int.* 109. *Dyer* 51.

That after delivery of the bond it was erased, and word *forty* was inserted, *The.* 18.

Debt against prior on bond made by predecessor. Plea, that late prior before sealing the bond resigned the priory, and afterwards took away the seal of the convent, and made the bond *non est factum*, *Ra. Ent.* 179. *Vet. Int.* 109.

Plea, *raiture* in the date of the bond, *Bro. Vad.* 450. Replication, that the *raiture* was before the delivery, and issue, *Bro. Vad.* 450. *similar rasure*, the bill of C. put for 'I'. *Br. R.* 258.

Debt

Debt on bond for thirty pounds; plea, that plaintiff made the bond for twenty pounds, and after sealing altered it to thirty pounds; replication, rasure was made before the sealing, and delivered afterwards, and traverses rasure after sealing, 1. *Br.* 90. *Bro. R.* 177.

Debt on bond for seventy pounds; plea, that he made a bill to plaintiff for twenty pounds, and plaintiff, after sealing, put figure 7 instead of 2, and *non est factum*, 1. *Bro.* 179. 198.

Plea, that defendant, an unlearned man, agreed to make his bond for ten pounds, and so the writing was shewn to him, 1. *Bro.* 198. *Tbo.* 173. *Mo. Intr.* 206. *Ra. Ent.* 180. *Vet. Intr.* 17.

Plea, that he agreed to give a bond for six pounds, for payment of six pounds at two days, with a condition that one B. should be inducted into a living vacant, and the condition is different, *Ra. Ent.* 180.

Plea, that defendant, an unlearned man, agreed to make the bond with a different condition, *Bro. R.* 201. *Ra. Ent.* 181. *Vet. Intr.* 18. 235.

Plea, by special *acquittance*; replication, *non est factum*, *Bro. R.* 201. *Mo. Intr.* 190.

Plea, *release*; replication, that it is not his deed, for that it is erased, *Pl. Gen.* 346. 235. 3. *Br.* 133.

Plea, release to *attaint*; replication, that being *lay*, he granted the release for a debt only, *Ra. Ent.* 91.

Plea, release; replication, that he granted release for arrear of rent, and not a release of trespass for condition broken, 2. *Co.* 7.

Plea, that defendant caused a bond to be made and delivered as an *escrow*, with intent that one J. should be put in fear, so that he might personally appear, &c. *Ra. Ent.* 13.

Plea, that defendant *erased* the bond, with condition, containing divers spaces and intervals, and that after delivery, the words were written within the spaces; replication, that before the sealing, defendant consented afterwards to seal, the spaces being filled up in the condition; rejoinder, traversing the consent, *Ro. Ent.* 233.

Plea, that defendant caused a bond to be made, and delivered it as an *escrow*, on condition that plaintiff would deliver an indenture of demise and bond for performance of covenants thereon made by defendant, that did not deliver, 2. *Bro.* 82. *Hanf.* 115.

Plea, that bond was given on condition that *husband and wife* should not marry, *Tbo.* 141.

That it was on condition that one J. should deliver a bond in which defendant was bound to J. *Vid.* 154. *Mo. Intr.* 188.

That condition was, if deodand belonged to the mayor, bond should be kept as an *escrow*; but if to plaintiff, as king's almoner, bond should be delivered as his deed, and that deodand belonged to the mayor, &c. 1. *Bro.* 177. *Ra. Ent.* 198.

That defendant, an unlearned man, delivered bond as an *escrow*, to be delivered to plaintiff when defendant had found one D. to be security to indemnify plaintiff for money mentioned in the bond, *Bro. R.* 201. *Ra. Ent.* 181. *Vet. Intr.* 18. 3. *Br.* 154.

Plea, that there was a *colloquium* about the money paid, when the bond was delivered without any such, *Bro. R.* 202. 3. *Br.* 134.

Plea, that there was a deleting, &c. in indorsement of the bond after the delivery; replication, did not delete, *Bro. R.* 202.

Plea, that defendant delivered bond to W. to indorse, *with condition to stand to answer*, and then delivered to plaintiff as his deed, *Ra. Ent.* 181.

That defendant delivered bond to be delivered to plaintiff, who refused to accept it, for which J. left the bond with plaintiff as an *escrow*, not as his deed; demur-

- rer, *Co. Ent.* 145. *Dyer* 167. When plaintiff should execute to defendant a release, *Ra. Ent.* 181. *Vet. Int.* 18.
- Plea to debt on two bonds by one obligor, that he delivered the bond as an escrow by the other conditions performed specially, *Ra. Ent.* 182.
- Plea, on condition that defendant would show plaintiff sufficient matter to discharge him from a relief demanded, or pay plaintiff one hundred shillings which he tendered, *Ra. Ent.* 181.
- Plea, that bond was given on condition that plaintiff would make an indenture defeasance, 9. *Co.* 137. On condition that plaintiff would deliver defendant one hundred bushels of salt, *Ash.* 222.
- Plea, that defendant delivered bond as an escrow, on condition if defendant, before a certain day, should not pay plaintiff forty shillings, then to deliver bond, otherwise not, which forty shillings, defendant, before the day, tendered, and plaintiff refused; *non est factum*, *Pl. Gen.* 281. On condition to be delivered when defendant should make plaintiff a deed of annuity, *Ibid.* 290.
- Plea (condition to pay money and deliver salt), that he paid money and delivered salt on the day in the condition mentioned; replication, protesting, did not deliver, did not pay, and issue, *Bro. R.* 173.
- Plea, that he did deliver oats and barley, and paid money according to the effect of the condition; replication, protesting did not pay, and issue on delivery, *Bro. R.* 192.
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- Plea by executor, that the official court of Canterbury hath special jurisdiction over the goods of the *officers* of that court wherever they fall, and that W. was *procurator* of the court and died intestate, and the official gave defendant letters to collect the goods, and traverses that he was executor or administered as executor; replication, that he administered as executor, *Ra. Ent.* 322.
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- Plea to debt against son and heir *riens per descent*, Pl. Gen. 345. 2. Mo. Int. 222. Bro. Vad. 215. 503. Cl. Aff. 85. 1. Inst. Cl. 220. Ra. Ent. 172. Vet. Int. 18. Ash. 210. Replication, Hansf. 107. Tho. 428.
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Plea (condition to assign lands), that plaintiff did not request ; replication, on the request according to the condition ; rejoinder, and issue on the request, *Tbo.* 44.

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Plea (condition quiet enjoyment, make assurance, and deliver deeds), that plaintiff quietly enjoyed lands, and that defendant and others made all assurances devised by plaintiff, and delivered all deeds ; replication, release devised by the attorney, who tendered to defendant to execute, which he refused ; rejoinder, to refusal, 3. *Br.* 156.

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Plea (condition to pay rent quarterly for lands demised, provided it should cease on lessee being expelled), that lands descended to the son within age, a ward of the king, who granted the custody to lessor; the heir sues his livery.

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Similar plea; replication, that he did not pay the rent, *Ra. Ent.* 183.

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Plea to debt on bond, with condition to perform covenants in an indenture concerning *insurance of a vessel*, that the ship did not return to any port in England, and that the ship, on her return, by accident was within the time limited by the deed; replication, that the ship deviated from her voyage, and sailed on another voyage, and by the deviation was lost; rejoinder, that the ship was in the service of a company of merchants in the East Indies trading (of which society plaintiff was a member), and by order of the society the ship deviated; surrejoinder, that the money paid by the plaintiff in the adventure was defendant's money, and traverse that plaintiff was member of the society at the time of executing the deed; demurrer special, *Bro. R.* 248.

Plea to debt on bond, &c. that there are not any covenants on the part of the undersheriff to be performed; replication, after *oyer* of the indenture; demurrer, *Wi. Ent.* 319.

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Plea, that neither the said R. C. nor his assigns, devised any sufficient demise of the rectory, and that he hath not yet resigned, &c. *Re. Dec.* 34.

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478. Plea of *comperuit ad diem* to an action on a bail bond; 483, 484. replication, *nul tiel record*.
479. Replication of *nul tiel record* of assignee of principal, where the record is alledged to be in the same court, and defendant's record in C. B.
482. Plea, 23. Hen. 6. to an action on bail bond, and that it was given for ease and favour; replication, that defendant, as sheriff, arrested defendant by process, for contempt of the court of chancery, and tendered a bail bond, which plaintiff was bound by the rules of court to accept, and traverses the ease and favour.
483. Replication (to plea, that bail bond was given for ease and favour), that it was for defendant's appearance at the return of the writ, and not for ease and favour.
- Plea, *comperuit ad diem* to bail bond; replication, *nul tiel record*; rejoinder, *habetur tale recordum*, default made in producing the record; judgment, *Lill. Ent.* 498.
- Plea by one of the bail of 23. Hen. 6. c. 9. that the bond was given for *ease and favour* thereon by bailiffs to defendant in the principal action upon a second arrest, after the present plaintiffs had, upon the former account, voluntarily permitted the defendant in the principal action to go at large; replication, that the bailiffs did keep defendant in custody until he gave bond for his appearance, and traversing that the same was given for ease and favour; rejoinder, that the same was given for ease and favour.
- Plea to an action on a bail bond, that no *capias satisfaciendum* was sued out against principal; replication, that a *capias satisfaciendum* was sued out against the principal, which was returned and filed.
- Plea to an action on a bail bond, that no such *alias* bill of Middlesex, as stated in the declaration, issued against the principal.
- Plea to debt on bail bond in B. R. against principal, that he appeared at the return of the writ according to the con-

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- dition; replication, *nul tiel record*; rejoinder, that there is such record, - - - - - Lill. Ent. 114
- Plea to an action against bail, 23. Hen. 6. c. 10. and given for ease and favour in his imprisonment; demurrer and rejoinder, - - - - - Ibid. 126
- Plea, that defendant, as bail, had not sufficient, nor was commorant within the county; *per quod*, bond was void by 23. Hen. 6.; demurrer, *Tbo.* 212.
- Demurrer and declaration on two bonds to sheriff after *oyer*, 2. *San.* 289. and for that the defendant is sued severally, 1. *San.* 290.
- Plea (condition to appear) that a bond was made on a day after return of writ; and traverses bond delivered before that day, *Tbo.* 219.
- Plea, &c.; replication, that J. was arrested by virtue of a *latitat* returnable Tuesday next after Trinity term; rejoinder, that J. was arrested on Monday, &c.; surrejoinder and issue, without traversing as it should be, *Vid.* 200. With traverse, 1. *San.* 15.
- Plea, *statute* 23. Hen. 6.; defendant was arrested on *capias satisfaciendum* out of chancery, and plaintiff, being under sheriff, took bond for his enlargement; demurrer, *Wi. Ent.* 333. Like plea on attachment, and demurrer, 2. *Ven.* 235.
- Plea, *comperuit ad diem* in B. R.; replication, *nul tiel return*, *Bro. R.* 203. *Pl. Gen.* 366. *Han.* 115. *Ro. Ent.* 203. 1. *Inst. Cl.* 213. 337. 3. *Br.* 137.
- Plea to debt on bond entered into to marshal, 23. Hen. 6. one P. was in execution in plaintiff's custody at suit of R. and defendant, for *showing ease and favour*, P. became bound; replication, that defendant gave bond for better security to plaintiff that P. should not escape; and traverses ease, &c.; demurrer, 1. *San.* 157.; plea 23 Hen. 6. that it states, "then the condition shall be void;" demurrer, 2. *San.* 76; replication, bond made for a just debt; traverse, that it was taken by *colour of office*; issue on the traverse, *Ro. Ent.* 209.
- Plea to bond to warden of the Fleet, 23. Hen. 6. that it was void, being taken by colour of office; replication, proviso that the warden should not be damnified in the duty of his office; demurrer, *Wi. Ent.* 192.
- Plea to bail bond 23. Hen. 6.; replication, that writ of extent on statute staple issued out of chancery, directed to the sheriff of L. and plaintiff being under sheriff, agreed before the delivery of the writ of *liberate* with defendant, that he should pay plaintiff thirty-two pounds for executing said writ of payment, made bond, and further plea of 29. *Eliz.* for fees of execution; special demurrer, and held void, *Wi. Ent.* 334. Like in C. B. and *dies datus* to bring in the record, *Mo. Int.* 186. *Pl. Gen.* 368.
- Plea (condition to appear in B. R. on the day) that bond was void by 23. Hen. 6.; demurrer and judgment for defendant, *Bro. R.* 222.
- Plea to debt on bond, (with condition, that defendant would be a true prisoner) that bond was taken *colore officii* against the statute, where defendant was taken by *liberate* on statute staple; demurrer, *Pl.* 61.
- Plea, that defendant was arrested by warrant on *latitat*, and defendant for his enlargement became bound to plaintiff as bail; replication, that he was at large, and gave the bond for a just debt; and traverses that it was taken *colore officii*, *Ap.* 234.

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491. Plea, that the parish, &c. were not damnified until, &c. when the putative father offered to take and provide for the child; and that if the defendants have been since damnified, it was of their own wrong.
492. Plea to debt on bond given to the parish *to indemnify* them against the charge of a bastard child, that A. B. mentioned in the bond, was not delivered of any child, nor were the inhabitants damnified; replication, that A. B. mentioned in the bond was *ensient* of a bastard child, which, before the exhibiting, &c. was born, and that the defendant did not provide for the child, whereby the inhabitants were damnified; rejoinder, protesting that the child was not chargeable; for rejoinder, defendant says, that the child was provided for by the mother.
493. Plea, &c. that he paid the money as ordered, and one shilling and sixpence *per* week, and that the parish was not damnified, and that he gave security, and afterwards offered, and still is ready to take the child and keep it himself, but the overseers refused, &c.; replication, confessing the payment of the money, but protesting that he did not offer to take the child.
500. 502. Plea, &c. *non est factum*; 2d, if plaintiffs are damnified, it was of their own proper wrong; 3d, dures; 4th, *per minas*; replication to last plea, that S. S. after making the bond, lay in of a still born child, and fell sick, and continued so till her death, and that defendant did not find necessaries, and plaintiffs were obliged to do it, and thereby became damnified; and traverse of being damnified of their own wrong; replication to the other pleas; rejoinder, and issue on the traverse.
498. 499. Plea to bastardy bond, that neither plaintiffs, their successors, or the inhabitants of, &c. were damnified, &c.; replication.
499. Plea, that the mother removed into another parish, where the child was born, and thereby gained a legal settlement there, and that if plaintiffs were damnified, it was of their own wrong.
502. Plea, that the woman was married, and the child born in lawful wedlock; replication to first plea, protesting she was not married, and child born a bastard; rejoinder.
503. 505. Replication to plea, &c. that woman was delivered, and weekly payment due.
- Plea, *non est factum*; and 2d, *non damnificatus*; replication to the second plea, that E. W. was delivered of two children, and that neither defendant, or any one for him, provided nourishment for them, by reason, &c.; rejoinder, that no

justices order was ever made for the maintenance, &c. and so if damnified, *de injuriâ*, &c. ; surrejoinder, that they were damnified on account of the maintenance, &c. within the meaning of the condition of the bond, and not of their own wrong ; and issue, - - - - -

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Replication to like plea, that plaintiffs, and no other persons, provided for the boy for the space of a month ; rejoinder, that defendant offered to maintain the boy, and the parish refused, held a *departure*, and bad, 2. *San.* 81.

Plea (condition to indemnify as well the mayor, commonalty, and citizens of London, as the parishioners of A. on a bond by the governors of the hospital of Bridewell), after oyer, letters-patent for incorporation of B. and that it does not appear they have power to take such bonds ; demurrer and judgment for plaintiff, *Wi. Ent.* 328.

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410. Plea, praying oyer of the bond and condition, respecting the demise of a coal mine by plaintiffs to defendants, to be worked by them, to indemnify them against any damage to be done thereby to the plaintiffs' lands and houses above ground, averring that they are not indemnified ; replication ; rejoinder.

518. Plea 1st, *non est factum* ; 2d, that clerk did faithfully *account* ; and did not damnify ; replication ; issue to 1st plea ; 2d, that E. H. was continued clerk after a partner had been taken in, and business carried on in the partnership account, and J. J. had carried on the business before alone, and that on, &c. he had a balance in his hands on account of the partnership, which he refused to pay ; rejoinder, that principal did pay, &c.

520. Plea of performance to an action against a surety in a bond of indemnity, and to *account* to the stewards of a charitable society for all money to be deposited in their subscription box, lodged at the house of the prin-

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533. cipal; other pleas; replication, taking issue on the first, *assigning breach* on second, and denying *leave* stated in the third; replication to the other pleas; rejoinder and issue on all the pleas.
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- 528, 529. Plea, *non damnificatus*; replication, setting forth plaintiffs damage specially, and that defendant hath not indemnified him; rejoinder, taking issue on plaintiffs having sustained damage.
531. Plea, *payment* and indemnity to plaintiff to pay several debts, for which plaintiff was jointly bound with and 533. for defendant, and to indemnify plaintiff; replication, did not pay one of the debts; and issue.
- 535, 534. Plea, *non damnificatus*; replication, shewing special damage; bill filed in chancery, &c. whereby, &c. 535. demurrer.
536. Plea, that it was agreed between plaintiffs and A. B. who was abroad, and bought a ship, for which defendant became bound, that if A. B. did not pay he would, that plaintiffs should send A. B. a ship and cargo, and that obligor executed the bond after such agreement 539. had been made; other pleas; replication, that plaintiffs did send the ship with all reasonable expedition; 3d, they did not receive the money arising from the sale of the ship and goods.
539. Replication, &c.; an *account* stated between plaintiffs and their clerk, and clerk had embezzled.
543. Plea by officer giving security to knight marshal in the office of one of the bearers of the virgers of the household, performance of all things, &c. in the condition; replication, protesting that A. B. did not do his duty, but suffered prisoner to escape, put in his custody by another officer on a *capias satisfaciendum*, whereby he was compelled to pay the debt to person at whose suit *capias satisfaciendum* issued; demurrer; 548. joinder.
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ticular damage in the following way : that before the time
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son was a prisoner in the Fleet in execution for debt at the
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lar goods for which he offered to pay; replication, protesting did not offer, &c. that he embezzled five pounds besides other things; rejoinder, and issue on embezzling, *Bro. Met.* 231.

Plea, that testator, after executing the writing, died, and the apprentice never did absent himself after, and did not embezzle; replication, that he did; rejoinder, and issue on embezzling, *Cl. Aff.* 353.

Plea (to bond by governor and company of merchants of L. trading to the East Indies against factor, with condition to render account and pay over monies, &c.) that he rendered a true and perfect account of all goods, monies, &c. delivered, &c. and paid, *Bro. R.* 227.

Plea, *non damnificatus*; replication, that obligee recovered judgment against plaintiff on the bond in the sheriffs' court in London, and so damnified; rejoinder, *nil tibi record*; surrejoinder, *habetur tale recordum*, and writ to certify awarded, 1. *Bro.* 194.

Plea, judgment recovered against plaintiff on bond in B. R.; rejoinder, judgment obtained by fraud, *Tho.* 145.

Replication, that N. recovered thirty-eight pounds in C. B. for his damages against defendant, and plaintiff being his bail, N. sued out *scire facias* against plaintiff, and had judgment, and *sic damnificatus*, *Tho.* 171.

Plea, *non damnificatus*; replication, that the money being unpaid, obligee sued plaintiff in the stannary court, and plaintiff was taken and detained until he found bail, upon which plaintiff, to avoid costs and vexation, paid the money, *Wi. Ent.* 236.

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Plea (condition was to perform articles entered into between defendant and another, and defendant indemnified plaintiff), that articles were made for payment of money by J. to H. which J. paid, and *sic non*, &c.; demurrer, *Wi. Ent.* 187.

Plea (condition to indemnify against all charges that might happen on discharging defendant out of prison, then being in execution at the suit of plaintiff, from all persons who should molest him on account of the discharge), that plaintiff affirmed his plaint against N. in the city court of York for one hundred pounds, defendant and one H. was his bail, defendant was taken in execution thereon; that plaintiff discharged him from the execution, and plaintiff was not damnified by the release; replication, plaintiff confesses the plea, but saith, before defendant was taken in execution, H. the other bail, with another person, became bound to plaintiff for the payment of the money on the judgment, in consideration thereof plaintiff permitted H. to take the defendant in execution, and that plaintiff would not release him without assent of H.; defendant was taken in execution, and plaintiff released him; H. brought suit against plaintiff on the promise, and recovered *sic damnificatus* by the discharge, &c.; demurrer, and judgment for plaintiff, *Wi. Ent.* 271. *Vide Hob.* 269.

Plea, *non damnificatus*; replication, money was unpaid, and obligee was compelled to arrest plaintiff, and plaintiff did not venture to go about his lawful business; rejoinder, that defendant had no notice thereof; demurrer, 1. *San.* 114.

Plea; similar replication, that *feme* obligee took husband, and they after sued out original, &c. *capias* on the bond for money unpaid; *per quod*, plaintiff, to discharge her from the bond and payment of part of the debt, expended thirty shillings; rejoinder, that defendant, after the original and *capias* sued out for the discharge of plaintiff, paid the whole debt and costs, and delivered the bond to be cancelled; and traverses that plaintiff expended thirty shillings; and issue on the tender; but defendant *nil dicit*, *Bro. R.* 188. 1. *Br.* 107.

Replication, that money payable on a certain day was unpaid, and that plaintiff, to discharge

discharge her, was obliged to pay it; rejoinder, protesting, &c.; for plea, faith, that obligee, before the day of the *release*, paid defendant, by general release; demurrer special, for a departure from the plea, *Bro. R.* 228.

Plea, *non damnificatus*; replication, that defendant, collector of rents belonging to the society of the New River company, received one thousand three hundred pounds, which he did not pay to the treasurer of the society, by which plaintiff was threatened to be arrested, and *pro redemptione suo* to prevent it was forced to agree to pay two hundred and fifty pounds; demurrer, leave to plaintiff to *amend*; replication, and to omit *pro redemptione*, &c. and make the sum twenty-three thousand nine hundred and forty-eight pounds; rejoinder, admits defendant received twenty-one thousand five hundred and ninety-one pounds, which he paid to the treasurer, and traverses that he received twenty-three thousand nine hundred and forty-eight pounds, *Br. R.* 204.

Plea, *non damnificatus*; replication, money unpaid, and to avoid a suit and charges, paid money to obligee, and *sic damnificatus*; rejoinder, and issue on payment, *Mo. Intr.* 192.

Plea (condition special); replication, protesting that he did not indemnify; for plea faith, that plaintiff disposed and paid for his own use for G. defendant's son, one hundred pounds, which defendant did not repay; issue on the payment, *Mo. Intr.* 193.

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Plea by administrator, that intestate in his lifetime paid money on a certain day, and so indemnified plaintiff; replication, did not pay; rejoinder, and issue, *Br. R.* 194.

Plea, conditions performed, and *non damnificatus*; replication, by non-performance of condition of one of the twelve bonds mentioned in the plea, *Re. Dec.* 234; plea, condition performed, and *non damnificatus*, *Cl. Aff.* 82.

Plea (to bond to indemnify inhabitants for tithes), condition performed; replication, damaged by suit in the court of exchequer; demurrer, *Ibid.* 408.

Plea, *non damnificatus* to a bond to indemnify; replication, *payment* on the day, 1. *Inst. Cl.* 218. 338. *Han.* 118. *Tbo.* 426.

Plea, that no request was made, or notice in writing given to indemnify, *Clift.* 147.

Plea, *non damnificatus*; replication, money unpaid, and obligee was *executor*, who arrested plaintiff by *latitat*, and detained him until he paid the money, with costs; demurrer, 3. *Br.* 174.

Replication to like plea, that money unpaid, and obligee threatened and endeavoured to arrest plaintiff; *per quod*, plaintiff paid *et sic damnificatus*, *Asb.* 247.

Plea, *non damnificatus* by three writings specified in the condition, or any of them, or any suit thereon, *Her.* 302.

Plea, *payment* at the day; replication, and issue on the payment, 3. *Br.* 118, 119.

Plea, that the creditors obtained judgment against plaintiff in B. R. and defendant, at plaintiff's request, paid money in discharge of the judgment; demurrer, *Co. Ent.* 139.

Plea, condition that defendant should discharge plaintiff of a security entered into by plaintiff to J. that J. by *labouring* defendant, made plaintiff several acquittances for fifteen pounds, for which the security was given, 1. *H.* 7. 30.

Plea, *non damnificatus* (condition to discharge land of rent claimed); replication, that one H. being seized, demised to three for their lives, rendering rent, and the reversion descended to coheirs, who distrained cattle by their bailiff for rent arrear, and plaintiff, to avoid suit, made his bond to pay all the rent due before the feast, notice to defendant, and requests payment, which he did not make, and plaintiff paid the rent, *Her.* 309.

Plea to debt on bond, with condition to perform covenants of an *indenture of apprenticeship* after *year* of condition), an indenture, and protesting that the apprentice did

not defraud the master, did not give defendant notice, nor satisfy him on demand; replication, did defraud master of forty shillings, on which plaintiff gave defendant notice, and requested him to pay; rejoinder, and issue, *Tho.* 183. Like replication, and demurrer, *Wi. Ent.* 168.

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- 7. Plea to debt on sheriff's bond, that plaintiff in replevin appeared, and no return adjudged; replication, that one abbiss appeared in the county court, that cause was removed into B. R. and that court gave judgment for defendant, and adjudged a return of the goods.

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- 506. Plea to debt on respondentia bond, that after the ship had sailed, and before its return, it was sunk, and the goods lost; replication, protesting that ship did not overset, &c. and goods were not lost.
- 507. Plea, &c. after the making the bond defendant sailed with goods for the East Indies, and there sold them and laid out the produce in other goods to bring home, and that in coming home the ship was lost, and only part of the goods were saved; and that defendant, after his arrival, paid plaintiff an average part of what was saved; replication, admitting ship lost, but what defendant paid was not an average part.
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- 509. Plea, &c. that money was not lent, but a debt previously owing.
- 510. Plea, &c. that ship did not arrive safe at, &c.; replication, protesting that ship was not taken, says, that she did safely arrive at, &c.
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- 36. Plea 1st, that ship did not stay at the ports of L. and J. sixty-five running days, and ten days over; other
- 37. pleas; replication, issue on other pleas,
- 41. Plea, *nil debet* in debt on policy of assurance.
- 409. Plea, *oyer* of bond and condition, which was, that A. B. co-obligor in the bond, should perform the covenants

- the judgment and recognizance remain uncanceled *per fraudem*; demurrer, to first plea; issue on the other, *Wi. Ent.* 242.
- Plea, statute staple for four thousand made to W. and statute merchant for seven thousand pounds made to C.; replication, that the statute made to W. was for the performance of covenants which were never broken, and same of the same made to C. *Wi. Ent.* 307. *Co. Ent.* 146.
- Plene administravit*, *Mo. Int.* 185. *Pl. Gen.* 355. 2. *San.* 216. 306. 2. *Ma. Int.* 241. *Bro. Vsd.* 181. 215. *Cl. Aff.* 73. 165. *Tbo.* 427. *Ra. Ent.* 202. 294. 323. *Ca. Ent.* 149. *Wilk.* 276. *Vet. Int.* 233. by two executors, together with co-executor, 3. *Br.* 151.
- Plea, acquittance to part; *plene administravit* to residue, *Bro. R.* 174. Replication, that he had assets, 1. *Br.* 44.
- Plea to debt against A. and W. executors, that A. died *after the last continuance*, W. pleads *plene administravit*, *Bro. R.* 175. 1. *Br.* 87.
- Plea (debt against executor, together with another executor who is outlawed), that testator made him executor who is outlawed, and that defendant as his servant sold divers goods, *Bro. R.* 126. Demurrer, 3. *Br.* 124.
- Plea to debt on bill *plene administravit*; replication, that plaintiff sued out and prosecuted original to issue against defendant and her husband who died, and that the writ abated; afterwards plaintiff exhibited his bill for the same debt, and that defendant had goods on the day of the original; rejoinder; issue on exhibiting the bill, *Vid.* 274.
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- Plea, that defendant had notice of the suit on a certain day, before which he fully administered; replication, that on that day he had assets, 1. *Bro.* 164. *Tbo.* 184. 2. *Bro.* 100. 3. *Br.* 189. *Her.* 302. *Ajb.* 192.
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- Plea, *plene administravit præter*, &c.; replication, that defendant had goods beyond, 2. *Bro.* 77. *Ra. Ent.* 323. *Vet. Int.* 69. Judgment *in futuro* for residue, *Ajb.* 249.
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Plea of bankruptcy to debt on bond against executors of obligor,

2. Ld. Raym. 1546

Plea of statute of usury to an action of debt on bond. Replication, that the scrivener took a bond for fifty-two pounds ten shillings from the defendant instead of fifty-one pounds five shillings, without the knowledge of plaintiff. Demurrer and joinder,

2. Mod. Ent. 228

- Plea, as to part of salary, several retainings were not made according to statute 5. Eliz. of labourers, *per quod*, they were void; and as to the residue, *nil debet per legem*, which he perfected. Demurrer to the plea, *Tbo.* 198. *Cl. Aff.* 139.
- Plea of usury to bond with condition to pay thirty-three pounds if E. should be alive, and if dead then twenty-six pounds, and for thirty pounds lent, *Co. Entr.* 168.
- Plea, that writing was made to secure payment of thirty pounds for a cask of oil bought, which defendant could buy for twenty-five pounds in monies numbered, and the true price thereof was twenty-five pounds. Replication, that the true price of a cask of oil was thirty pounds, and traverses the price at twenty-five pounds, *Rn. Ent.* 689.
- Plea to bond, that bond was made for security of payment of sixty pounds for wares bought of the value of two hundred pounds, and not more. Replication, that the bond was made on good consideration, 1. *Bro.* 187. Replication, that bond was made for a just and true debt, and traverses usury, *Ibid.* 188.
- Plea, 12. Car. 2. without reciting the statute of usury, *Bro. Vad.* 254.
- Plea, that plaintiff reserved to be paid twenty shillings for forbearing and giving day of payment of seven pounds for six months. Replication, that he lent seven pounds to defendant without any consideration of gain against the form of the statute, and traverses usury, 1. *Bro.* 189. 201. *Tbo.* 146. Issue on traverse, *Tbo.* 157. 2. *Bro.* 66. *Hansf.* 79.
- Plea, that plaintiff had depasturing of sheep for loan of twenty pounds, *Cl. Aff.* 315. Replication, did not depasture. Plea of indiscreet usury. Replication and issue, *Ibid.* 320. 424. 428. Replication and rejoinder, *Tbo.* 347.
- Plea to bill penal by statute and five pounds paid. Replication, for a just debt, and traverses corrupt agreement. Demurrer, *Clif.* 183. to bond, *Ibid.* 185.
- Plea, that bond was void by statute of usury, by late sheriff. Replication, that bond was made for payment of fifty pounds, and three pounds for interest at the end of the year, and not before. Rejoinder maintains the bar, and traverses that the money was paid at the end of the year. Demurrer, *Tbo.* 159.
- Plea, that defendant was indebted to plaintiff in five pounds, and then delivered to plaintiff ten quarters of grain at a certain day, and for safe delivery thereof became bound in twenty pounds, that it was worth ten pounds, and for forbearing day of payment plaintiff reserved five pounds. Replication, that by five pounds lent and five pounds paid, and five pounds to be paid on delivery of grain, defendant became bound, 2. *Bro.* 85.
- Plea, that plaintiff lent defendant twenty pounds for forbearing and giving day of payment thereof for one year; writing was made for payment of twenty-four pounds, contrary, &c. Replication, that bond was made on good consideration, and traverses usury. Rejoinder, and issue on the traverse, *Ro. Ent.* 217.
- Plea, plaintiff lent defendant thirty pounds for seven years, and for giving day of payment; granted to plaintiff annual rent of three pounds until defendant should repay plaintiff. Replication, that defendant, for thirty pounds *bona fide* paid, granted the said annual rent, and traverses the corrupt agreement in the declaration, and issue, *Ro. Ent.* 220.
- Plea, plaintiff lent defendant one hundred pounds, and for giving day of payment from the twentieth of October until the twentieth of January next reserving to himself for interest six pounds. Replication, that defendant was indebted to plaintiff in one hundred pounds for a true debt, and for payment thereof with others became bound, and traverses the usury, *Ro. Ent.* 229.
- Plea, lent to defendants twenty pounds, and made three several bonds with penalties for payment of three several ten pounds at several days, of which this bond was one. Replication, that bond was made for a just debt, and traverses the usury, *Vid.* 205. Like plea and demurrer, *Wi. Ent.* 234. Replication, that plaintiff

plaintiff agreed to lend defendant fifty pounds, according to the rate of five *per cent.* and that the scrivener mistook, 2. *Ven.* 81.

Plea by executor, that testator lent W. twenty pounds for four years, and W. for time of payment granted an annual rent of forty shillings in fee, with clause of redemption on payment of the money, and bond was made to secure testator in the enjoyment of the annuity. Replication, that W. being indebted to testator in twenty pounds as for a just debt, and for money paid W. by testator W. granted, &c.; and bond was made as well for payment of twenty pounds as for arrears of the annuity, and traverses usury. Demurrer special, *Wi. Ent.* 288.

Plea, plaintiff lent defendant sixty pounds, and giving time of payment of one month, made a bond for payment of sixty-two pounds, which was void. Replication, that defendant was indebted in sixty-two pounds for a true debt, and for payment whereof he made the bond, and traverses the usury, *Bro. R.* 235.

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65. Plea, &c. of payment by the other recognizor.

67. Plea, 1st, *nul tiel record* of the judgment against the

68. principal; several other pleas. Replication, that there is such a record, &c.; and Replication to the

70. other pleas. Rejoinder to pleas the 3d and 4th.

71. Demurrer, with causes. Joinder.

77. Plea, that before any *capias satisfaciendum* issued principal died.

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Plea in bar, *defeasance* to debt on recognizance, *Ibid.* 174.

Plea by administrator, *release*. Replication, *non est factum*, *Ra. Ent.* 192.

Plea of *son assault demesne* to debt on recognizance to keep the peace, breach by assault, *Ibid.* 193.

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115. Replication, that there is such record; and two issues. one to be tried by the record, the other by the country.

396. Plea, that he paid the judgment and damages.

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Plea to debt on judgment of *non. prof.* in the marshalsea court, that our lord the king did not grant any court to hold and hear pleas between persons not being of the palace. Demurrer, *Wi. Ent.* 184.

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That plaintiff sued out a *ca. ias satisfaciendum* on the judgment, and a warrant was delivered to the bailiff of the liberty, who took defendant, and voluntarily permitted him to go at large. Replication and issue, *Asb.* 237.

Plea, *nil debet* to debt on judgment in the county court, and concludes to the country, *Illeg.* 325. Similar *nil debet*, and wages his law, 1. *Br.* 111,

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202. Plea in abatement, that the contracts were made by the defendant and two other persons jointly.

212. Plea, that defendant tendered the penalty within the

213. time limited in the notice of action. Replication, that they did not tender.

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219. same offence. Replication, former suit discontinued.

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361. Plea, another action depending for the same offence. Impanlance. Further Impanlance.
371. Plea to a bill filed the same term by an informer, and judgment in bar. To 2d Count, exposing to sale. Demurrer; joinder.
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Plea to declaration for *tithes*, that lands were parcel of a priory of M. lately dissolved, and the late prior and all their predecessors held lands exempt from payment of tithes till the dissolution. Replication, that tithes were payable within forty years next before the dissolution, and traverses the prescription. Rejoinder, and issue, *Tbo. 147.*

Plea to like declaration; to part, *nil debet*; to residue, that the lands were parcel of the lately dissolved hospital of St. John of Jerusalem, enjoyed and improved by defendant and his predecessors, and that the late prior and his predecessors held lands exempt, &c. by several statutes, *Wi. Ent. 344. 346.*

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Plea (to an action against the *sheriff* for a *false return* of two knights to serve in parliament, where one of them was not resident in the county), that he was resident at H. in the county of S. and traverses that he was resident at P. in the county of D. *Ro. Ent. 418.*

Plea, *nil debet*, with protestation, *Ra. Ent. 430.*; and protesting that declaration is insufficient; for plea did not take the goods contrary to the statute, *Ra. Ent. 191. Upper B. P. 258.*

Plea (statute of *fraudulent deeds*), did not grant to defendant, contrary, &c. *Co. Ent. 153.* Did not take a mortuary, contrary, &c. *Ibid. 164.* Did not *maintain*, contrary, &c. *Ibid. 164.* Did not take lands to farm, contrary, &c. *Kitch. 119. 121.* Did not commit perjury, *Ra. Ent. 482. Co. Ent. 166. Leg. Flu 135.*

Plea, that plaintiff was not elected knight to serve in parliament, *Ra. Ent. 447. Vet. Int. 151. Ass. 76.*

Plea, that W. did not make letter of attorney to defendant to prosecute his suit, *Ra. Ent. 430.* Plea, that jury were impannelled by the sheriff, *Ra. Ent. 315.*

Plea (statute of non-residence), as to a moiety of the forfeiture, general pardon; to the other moiety, that he was chaplain to the bishop, and attending in his family. Replication, not chaplain, &c. *Ra. Ent. 599.*

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them a sum of money which he had in his hands ;
425. rejoinder, that A. B. did account and pay plaintiffs
427. all moneys that he had ; demurrer ; joinder.

428. Replication to a plea of performance of covenants accord-
ing to the condition of the bond ; an account stated
between their plaintiffs and their clerks ; balance
due ; clerk had not yet paid the balance, but em-
bezzled, &c. ; plea for plaintiff.

429. Replication to plea of *non damifactor* by executor of the late
warden of the Fleet prison against the jailor, shewing a par-
ticular damage in the following way : that before the time
of giving the bond in question, plaintiff's testator, who
was principal warden, and defendant, jailor, under him in
the Fleet ; and that before the giving of the bond, a per-
son was a prisoner in the Fleet in execution for debt at the
suit of A. B. a fugitive, removed thence from B. R. prison by
breach of jail, and that defendant permitted him to escape,
upon which plaintiff from the original action brought an action
of escape against plaintiff's testator, and recovered judg-
ment, which was afterwards affirmed in error, of which
plaintiff defendant had notice, and so says he was damni-
fied,

Lill. Ent. 160 to 162

Plea of *non damifactor* to debt on bond, to indemnify plain-
tiff for becoming bail for defendant,

Ibid. 494

Plea to debt on an indemnity bond, that the principal should
pay over all rents which he should receive, and also the in-
crease and improvements thereof upon any new contracts or
renewals of leases by performance of principal in his life-
time, and by executors &c.,

1. T. R. 432

Replication, protesting, &c. that after the writing obligatory,
and before executing the bill a large sum of money was re-
ceived by the principal in his lifetime for the rents, in-
crease, and improvements, which he did not pay,

Ibid. 484

Plea to debt on bond conditioned to pay to the officers and
soldiers of a regiment all such as defendant should receive
from the paymaster-general, and for the use of the regi-
ment, defendant pleaded payment in the words of the con-
dition ; replication, that defendant received several sums,
amounting to, &c. but refused to pay a great part thereof,

2. Burr. 771

Plea (condition to account, &c.) that no goods came to his hands, 1. *San.* 101. ; re-
plication, a silver cup, &c. ; and demurrer.

Plea (condition to account for moneys received on a brief), that he *placed* the briefs,
took up the money, and gave plaintiff an account ; replication, protesting that de-
fendant did not endeavour to *take down* the briefs ; for plea, did not come to a just
account ; and issue, *Bro. Met.* 232. *Ke. Dec.* 240.

Plea (condition to pay such legacies at such times, &c. as J. S. should by will di-
rect), protesting that J. S. made no will, for plea that he gave no legacies to
plaintiff and wife ; replication, that he did ; rejoinder ; and issue, *Ibid.* 237.

Plea, that defendant faithfully performed duty in condition mentioned ; replication,
did not render an account according to condition, *Clif.* 146.

Plea, that *apprentice* hath not purloined or embezzled any goods except such particu-
lar

DETINUE.

MIDDLESEX, to wit. Philip Carteret Webb, esquire, complains of Edward Beavoſr, esquire, being, &c. in a plea that he render to him, ſaid plaintiff, certain plans, drawings, or delineations of certain houſes, farms, lands, and premises of him the ſaid plaintiff, which he the ſaid defendant unjuſtly detains from him the ſaid plaintiff, for that whereas the ſaid plaintiff heretofore, to wit, on, &c. was lawfully poſſeſſed of certain plans, drawings, or delineations of certain houſes, farms, lands, and premises of him the ſaid plaintiff, that is to ſay, a certain plan, drawing, or delineation, of a certain farm called, &c. of him the ſaid plaintiff, ſituate in, &c. in the poſſeſſion of one T. Fulcock, a certain plan, &c. [ſet them out] as of his own proper plans, drawings, or delineations, and being ſo poſſeſſed, that he the ſaid plaintiff afterwards, to wit, on, &c. caſually loſt the ſaid plans, &c. before in this count mentioned, being parcel of the ſaid plans, &c. above demanded out of his poſſeſſion, and then afterwards, to wit, on, &c. came into the hands and poſſeſſion of ſaid defendant by his finding the ſame: And the ſaid plaintiff further ſaith, that although the ſaid defendant well knew and had notice that the ſaid plans, &c. were the proper plans, &c. of him the ſaid plaintiff, and although ſaid defendant afterwards, and whilſt the ſaid plans were in his poſſeſſion, to wit, on, &c. was required by ſaid plaintiff to deliver up the ſaid plan unto him the ſaid plaintiff, yet the ſaid defendant hath not delivered up the ſame, or any or either of them to him the ſaid plaintiff, to wit, at, &c.: And whereas heretofore, to wit, on, &c. was lawfully poſſeſſed of certain other plans, &c. of certain eight houſes whereof he the ſaid plaintiff then was, and from thence hitherto hath been, and ſtill is ſeiſed in his demesne as of fee, to hold for the term of his natural life, being muniments and evidences of the title of him the ſaid plaintiff to the ſaid laſt-mentioned houſes, &c. in reſpect of the extent, boundaries, and limits of the ſame reſpectively, that is to ſay, a certain plan, &c. being one of ſuch muniments and evidences as aforeſaid of a certain other farm called, &c. of him the ſaid plaintiff, ſituate in, &c. in the poſſeſſion of one, &c. a certain

Declaration in
detinue for plans,
&c. of eſtates
whereof plaintiff
was tenant for
life.

2d Count.

discharge her, was obliged to pay it ; rejoinder, protesting, &c. ; for plea, faith, that obligee, before the day of the *release*, paid defendant, by general release ; demurrer special, for a departure from the plea, *Bro. R.* 228.

Plea, *non damnificatus* ; replication, that defendant, collector of rents belonging to the society of the New River company, received one thousand three hundred pounds, which he did not pay to the treasurer of the society, by which plaintiff was threatened to be arrested, and *pro redemptione suo* to prevent it was forced to agree to pay two hundred and fifty pounds ; demurrer, leave to plaintiff to amend ; replication, and to omit *pro redemptione*, &c. and make the sum twenty-three thousand nine hundred and forty-eight pounds ; rejoinder, admits defendant received twenty-one thousand five hundred and ninety-one pounds, which he paid to the treasurer, and traverses that he received twenty-three thousand nine hundred and forty-eight pounds, *Br. R.* 204.

Plea, *non damnificatus* ; replication, money unpaid, and to avoid a suit and charges, paid money to obligee, and *sic damnificatus* ; rejoinder, and issue on payment, *Mo. Intr.* 192.

Plea (condition special) ; replication, protesting that he did not indemnify ; for plea faith, that plaintiff disposed and paid for his own use for G. defendant's son, one hundred pounds, which defendant did not repay ; issue on the payment, *Mo. Intr.* 193.

Replication, that money was unpaid, and obligee sued plaintiff on bond to an *exigifacias*, which plaintiff superseded, *Mo. Intr.* 195.

Plea by administrator, that intestate in his lifetime paid money on a certain day, and so indemnified plaintiff ; replication, did not pay ; rejoinder, and issue, *Br. R.* 194.

Plea, conditions performed, and *non damnificatus* ; replication, by non-performance of condition of one of the twelve bonds mentioned in the plea, *Re. Dec.* 234 ; plea, condition performed, and *non damnificatus*, *Cl. Aff.* 82.

Plea (to bond to indemnify inhabitants for tithes), condition performed ; replication, damaged by suit in the court of exchequer ; demurrer, *Ibid.* 408.

Plea, *non damnificatus* to a bond to indemnify ; replication, payment on the day, 1. *Inst. Cl.* 218. 338. *Han.* 118. *Tbo.* 426.

Plea, that no request was made, or notice in writing given to indemnify, *Clift.* 147.

Plea, *non damnificatus* ; replication, money unpaid, and obligee was *executor*, who arrested plaintiff by *latitat*, and detained him until he paid the money, with costs ; demurrer, 3. *Br.* 174.

Replication to like plea, that money unpaid, and obligee threatened and endeavoured to arrest plaintiff ; *per quod*, plaintiff paid *et sic damnificatus*, *Asb.* 247.

Plea, *non damnificatus* by three writings specified in the condition, or any of them, or any suit thereon, *Her.* 302.

Plea, payment at the day ; replication, and issue on the payment, 3. *Br.* 118, 119.

Plea, that the creditors obtained judgment against plaintiff in B. R. and defendant, at plaintiff's request, paid money in discharge of the judgment ; demurrer, *Co. Ent.* 139.

Plea, condition that defendant should discharge plaintiff of a security entered into by plaintiff to J. that J. by *labouring* defendant, made plaintiff several acquittances for fifteen pounds, for which the security was given, 1. H. 7. 30.

Plea, *non damnificatus* (condition to discharge land of rent claimed) ; replication, that one H. being seized, demised to three for their lives, rendering rent, and the reversion descended to coheirs, who distrained cattle by their bailiff for rent arrear, and plaintiff, to avoid suit, made his bond to pay all the rent due before the feast, notice to defendant, and requests payment, which he did not make, and plaintiff paid the rent, *Her.* 309.

Plea to debt on bond, with condition to perform covenants of an indenture of apprenticeship after 2. of condition), an indenture, and protesting that the apprentice did

not

better securing the payment thereof to the said Mary as aforesaid, he the said M. then and there delivered into the hands and possession of the said Mary divers other goods and chattels, to wit, two other table cloths, &c. &c. &c. another parcel of the said goods and chattels above demanded, to the value of other twenty pounds, to be kept and detained by the said Mary until he the said Michael should and did pay the said sum of seven pounds five shillings and sixpence to the said Mary, and the said Michael in fact saith, that he the said Michael afterwards, to wit, on, &c. tendered and offered to pay the said seven pounds five shillings and sixpence, and lawful interest for the same, from the said time of the lending thereof by the said Mary to the said Michael, until and upon the said twenty-eighth day of, &c. but she the said Mary then and there wholly refused to receive the same or any part thereof of the said M. and still detaineth the said last-mentioned goods and chattels in her hands and possession, whereby an action hath accrued to the said Michael to demand, &c. &c.: And whereas the said M. on, &c. had delivered to the said Mary 3d Count. divers other goods and chattels above demanded, to the value of other twenty pounds, to be safely kept and delivered again by the said Mary to the said M. when she should be thereto afterwards requested; yet the said Mary (although often requested) hath not delivered the said goods and chattels lastly above particularly mentioned, or any part thereof, to the said M. whereby an action, &c. &c.; yet the said Mary (although often requested) hath not yet delivered the said goods and chattels, or any part thereof, to the said M. but hath hitherto wholly refused, and still doth refuse, and still unjustly detains the same and every part thereof. Damages, &c. &c.

And the said Mary, by A. B. her attorney, comes and defends Plea, not denies. the force and injury when, &c. and saith that she doth not detain the said goods and chattels in the said declaration specified, or any part thereof, from the said Michael, in manner and form as the said Michael hath above thereof complained against her; and of this she the said Mary puts herself upon the country, and the said M. doth the like, &c.

And the said defendant. by A. B. his attorney, comes and Plea of non detineat. defends the wrong and injury when, &c. and saith, that he doth not detain the said goods and chattels in the said declaration specified, or any part thereof, from the said John, in manner and form as the said John hath above thereof complained against him; and of this he the said defendant puts himself upon the country, and the said plaintiff doth the like, &c.

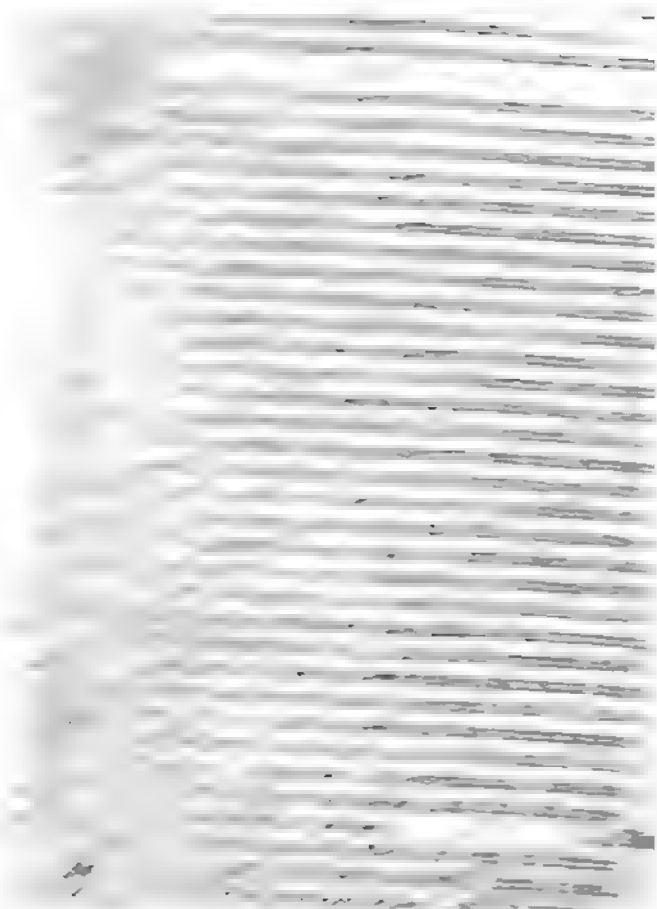
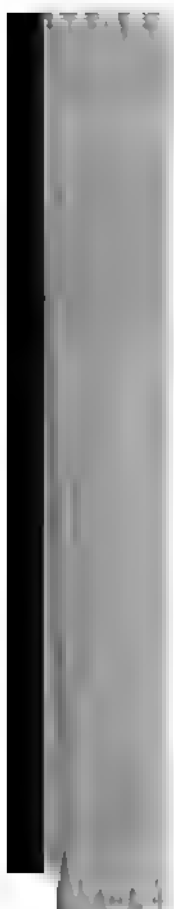
DURGUE

- way of estoppel, that plaintiff had judgment for the rent against defendant; at *nisi prius*; rejoinder, by *nul tiel record*, and judgment, *Tbo.* 174.
- Plea to covenant in indenture of demise of a liberty and pasture of one hundred replication, that he permitted testator and *executors* to keep one hundred she in certain manner, &c. as mentioned in the indenture, and issue, *Ro. Ent.* 182.
- Plea, similar replication, to plea by the governor and company of the New River *pillam*, and river water from the house, parcel of the premises demised, through fault of plaintiff was diverted and broken, by which defendant lost the use of river water demised to him; demurrer, *Vid.* 184.
- Plea, conditions performed generally; replication, non-payment of rent in arrear of grantee of reversion for six years; demurrer, *Wi. Ent.* 204.
- Plea, rent, *non animisit*, *Mo. Int.* 205. *Ra. Ent.* 152. 175. *Vet. Int.* 22. To part, *dimisit*, *Vet. Int.* 42.
- Plea as to part, no rent in arrear, *Pl. Gen.* 278. *Ra. Ent.* 175.
- Plea, ready to pay, and *uncore prist*, and accepts, *Pl. Gen.* 255.
- Plea to debt for rent to one part, *nil debet* to residue, that plaintiff entered into possession of premises, and expelled defendant, *nolle prosequi* to *nil debet*, and demurrer to residue, 1. *San.* 203.
- Plea to debt for rent, statute 32. Hen. 8. that lease made to an alien is void; demurrer, 1. *San.* 5.
- Plea to debt for rent, statute of non-residence; replication, that he did not alienate himself from the benefice beyond the time in the act specified, *Tbo.* 105. 217.
- Plea as to part, *nil debet* to residue, defendant assigned the term, which plaintiff accepted; demurrer, *Bro. R.* 226.
- Plea (to debt by grantee of reversion), by lessee for years, that defendant, before grant of the reversion, surrendered the term to lessor; replication, issue on the surrender, 1. *San.* 235. *Pl. Gen.* 254. 3. *Br.* 20. *Ra. Ent.* 176. *Vet. Int.* 74.
- Plea, that reversion of tenements by bargain and sale enrolled in the Hustons of London, was granted to defendant. Replication, protesting that there was no such custom; for plea, that S. sold plaintiff the reversion of the tenements and traverses that S. sold to defendant before, and issue, *Tbo.* 203.
- Plea, extinguishment of rent by entry, 2. *Mo. Intr.* 235.
- Plea, that plaintiff before any rent due entered into tenements demised, and expelled defendant. Replication, did not expel, *Pl. Gen.* 278. *Br. R.* 260. *Pl. Gen.* 252. 279. *Ra. Ent.* 175. *Vet. Int.* 74. To part, 3. *Br.* 18.
- Plea, entered into lands, parcel tenements demised, and continued possession to the end of the term, *Tbo.* 173. *Pl. Gen.* 279. Demurrer, *Ra. Ent.* 173.
- Plea, that plaintiff before the day entered into tenements, and from the possession thereof held him out, *Tbo.* 220. *Hob.* 326. *Pl. Gen.* 252. *Clif.* 150. To part, before any rent due, *Bro. R.* 231.
- Plea, that J. in his lifetime entered into one acre of parcel of the lands demised before any rent due, and during his life occupied it. Replication, did not take, *Ro. Entr.* 235.
- Plea, that rent was not demanded at a *reasonable* time, according to form and effect, &c. Replication, rejoinder, and issue, *Cl. Aff.* 403.
- Plea, non-age and disagreement to the lease, *Clif.* 149.
- Plea, that plaintiff levied rent by divers distresses. Replication, did not levy, and issue, 1. *Bro.* 200. *Tbo.* 154. *Pl. Gen.* 253. 273. *Hansf.* 108. *Tbo.* 428. *Ra. Ent.* 175. *Vet. Int.* 74. part of the rent, *Ra. Ent.* 175.
- Plea, that lessor had not a lawful right or interest at the time of the demise. Demurrer, *Lev. Ent.* 74.
- Plea, like as to part of the rent. *Pl. Gen.* 273.
- Plea, as to part, plaintiff took goods in the name of a distress for rent, and detains them. Replication, did not take, *Pl. Gen.* 273.

nor hath any or either of them yet delivered up the said deeds or writings, or any of them, to the said plaintiff, but have and each of them hath hitherto wholly refused, and still refuse, and each of them still refuses, and they still unjustly detain the same to the said plaintiff his damage of forty thousand pounds, and therefore he brings his suit.

First general issue: And for further plea in this behalf, the said defendants by leave of, &c. *actio non*; because they say, that the right honourable Henry lord viscount St. John, baron of Battersea, now deceased, in his lifetime, long before the said plaintiff had any thing in the said premises in the said declaration mentioned, and long before the said plaintiff was possessed of the said parchment and paper deeds and writings in the said declaration mentioned, to wit, on, &c. A. D. 1738, was seised of and in the premises in the said parchment and paper deeds and writings mentioned in his demesne as of fee, and was possessed of and in the said parchment, paper deeds, and writings in the said declaration mentioned, as of his own proper deeds and writings, and being so seised and possessed as aforesaid, by a certain indenture made on the day and year last aforesaid at, &c. in, &c. between the said lord viscount St. John, of the first part; one Thomas Osborne, now deceased, and one Joseph Morris, now also deceased, of the second part, and the honourable Henrietta Knight, now deceased, then the wife of Robert Knight, afterwards lord Luxborough, in the kingdom of Ireland, of the third part; one part of which said indenture, sealed with the seal of the said lord viscount St. John, they the said defendants now bring here into court, the date whereof is the same day and year last aforesaid, for the considerations therein mentioned, did bargain and sell to the said Thomas Osborne and Joseph Morris the said premises in the said parchment and paper deeds and writings mentioned, with the appurtenances; to have and to hold to them and their assigns from the day next before the day of the date of the said last-mentioned indenture, for and during and unto the full end and term of one whole year from thence next ensuing, and fully to be complete and ended, as by the said last-mentioned indenture more fully appears; by virtue of which said bargain and sale, and also by force of the statute for transferring uses into possession, the said T. O. and J. M. became and were possessed of the said premises in the said parchment and paper deeds and writings mentioned, with the appurtenances, for the said term, the reversion thereof belonging to the said lord viscount St. John, and his heirs; and the said T. O. and J. M. being so possessed of and in the said premises, and the said lord viscount St. John being seised of the reversion thereof in his demesne as of fee, afterwards, to wit, on, &c. at, &c. in, &c. he the said lord viscount St. John, by a certain other indenture then and there made between the said lord viscount St. John of the first part, the said T. O. and J. M. of the second part, and the said Henrietta Knight of the third part,

Plea, that before plaintiff was possessed the estates to which the deeds, &c. belonged, were limited in strict settlement, and came to lord viscount B.; that plaintiff lost them, and they came by finding into defendant's hands, who received notice from lord Bolingbroke to detain them for him, for that plaintiff had got the deeds, &c. by intrusion, without title.



seised of the said premises in the said parchment and paper deeds and writings mentioned, with the appurtenances, for the term of his natural life, and was possessed of the said parchment and paper deeds and writings in the said declaration mentioned, the remainder of the said premises belonging as is in and by the said last-mentioned indenture mentioned and contained, and the said lord viscount St. John being so seised and possessed as aforesaid, he the said lord viscount St. John afterwards, to wit, on, &c. at, &c. in, &c. died, upon whose death the said H. K. the mother, became and was seised of and in the said premises, and possessed of and in the said parchment and paper deeds and writings in the said declaration mentioned, for and during the term of her natural life, the remainder thereof belonging as is in and by the said last-mentioned indenture mentioned, and afterwards, to wit, on, &c. at, &c. died so seised and possessed; after whose death the said H. K. became and was seised of and in the said premises, and possessed of and in the said parchment and paper deeds and writings in the said declaration mentioned for and during the term of her natural life, the remainder thereof belonging as is in and by the said last-mentioned indenture mentioned, and being so seised and possessed as aforesaid, afterwards, to wit, on, &c. at, &c. in, &c. by a certain other indenture then and there made between the said Henry Knight (by the name and description of, &c.) of the first part, the said Henrietta the daughter, by the name and description of the honourable Henrietta Child, widow, daughter of the said Robert lord Luxborough, of the second part, the said Robert Knight, by his then name, title, and description of Robert lord Luxborough, and one Robert Cliffe of the third part, and one Josiah Child, now also deceased, by the name and description of J. C. son of the said Henrietta Child by the honourable Josiah Child her late husband, deceased, of the fourth part, (one part, &c. *profert in curia*), for the considerations therein-mentioned, he the said H. K. did, for himself, his heirs, executors, and administrators, and for every of them covenant, promise, and agree to and with the said R. K. then lord Luxborough, and the said Robert Cliffe, and each of them, their, and each of their heirs and assigns, that he the said H. K. should and would as of the then present Trinity term, or of some other subsequent term, in due form of law acknowledge and levy to the said R. K. then lord Luxborough, and Robert Cliffe, and their heirs, or to one of them and his heirs, before the justices of his majesty's court of common pleas at Westminster, one or more fine or fines *jur conuzance de droit come ceo*, or one or more fine or fines *jur conuzance de droit tantum*, with proclamations thereon, to be had and indorsed according to the form of the statute in that case made and provided, according to the ordinary and common course of fines for assurance of lands in such cases used, amongst other things of all and singular the said premises in the said parchment and paper deeds and writings mentioned, upon the trusts and to and for the several uses, intents, and purposes therein-
after

Naming the
judges of C. B.

after limited, expressed, and declared of and concerning the same, that is to say, to and for the use and behoof of the said Josiah Child, party to the said last-mentioned indenture, and his assigns, for and during the term of his natural life, without impeachment of or for any manner of waste; and from and after the determination of that estate, then to the use and behoof of the said Robert, then lord Luxborough, and Robert Cliffe, and their heirs, during the natural life of the said Josiah Child, in trust to preserve the contingent remainders thereof thereafter limited from being defeated or destroyed, and for that purpose to make entries and bring in actions as occasions should be or require; but nevertheless permit the said last-mentioned Josiah Child and his assigns to receive and take the rents, issues, and profits thereof during his life, to and for his and their own use and benefit; and from and after the decease of the said last-mentioned J. C. then to and for the use and behoof of the first son of the body of the said last-mentioned J. C. lawfully begotten or to be begotten, and of the heirs male of the body of such first son lawfully issuing; and for default of such issue, then to and for the use and behoof of the second, third, fourth, fifth, sixth, and all and every other son and sons of the said last-mentioned J. C. lawfully begotten or to be begotten, and of the several and respective heirs male of the body and bodies of such sons respectively, lawfully issuing, according as they should be in seniority and priority of birth, the elder of such sons and the heirs male of his body being always to be preferred, and to take before the younger of them, and the heirs male of their respective bodies; and in default of such issue, then to and for the use and behoof of the said Henry Knight, and the heirs of his body lawfully begotten or to be begotten; and in default of such issue, then to the use and behoof of the right heir and assigns of the said Henrietta, the daughter, for ever, as by the said last-mentioned indenture, among other things, more fully appears: And the said defendants further say, that in pursuance of the said covenant of the said Henry Knight, afterwards, to wit, in Trinity term, in the thirty-fourth year of the reign of lord George the Second, late king of Great Britain, in the court of the said late lord the king of the bench at Westminster, in the said county of Middlesex, before, &c. then the justices of the said late king of the bench and others then and there present, a certain fine was levied between the said Robert Cliffe, plaintiff, and the said Henry Knight, defendant, amongst other things of the premises in the said parchment and paper deeds and writings mentioned whereof a plea of covenant was summoned between them in the same court, to wit, that the said Henry Knight had acknowledged the aforesaid premises, with the appurtenances, to be of the right of the said Robert, and had granted for him and his heirs that the aforesaid premises, with the appurtenances, which the said last-mentioned Henrietta, on the day the said agreement was made, held for the term of her life of the inheritance of the said Henry

and which after the death of the said last-mentioned Henrietta, and of the first and other son and sons of the body of the said last mentioned Henrietta lawfully begotten or to be begotten, and the heirs male of the body and bodies of all and every such son and sons lawfully issuing, ought to revert to the said Henry and his heirs, should immediately after the death of the said last-mentioned Henrietta, without such son or sons and the heirs male of the body and bodies of such son or sons, wholly remain to the said Robert Cliffe and his heirs, to be held of the chief lord of the fee by the services which to the aforesaid premises, with the appurtenances, belonged, for ever; and the said Henry Knight had granted for himself and his heirs, that they should warrant to the said R. C. and his heirs the aforesaid premises, with the appurtenances, as is aforesaid; against him the said Henry Knight and his heirs for ever, as by the said fine in the said court of our said lord the king of the bench at Westminster aforesaid, more fully appears; which said fine was had and levied to the several uses in the said last-mentioned indenture mentioned: And the said defendants further say, that after the levying of the said fine, and long before the said plaintiff was possessed of the said parchments, paper deeds, and writings in the said declaration mentioned, to wit, on, &c. the said last-mentioned Josiah Child died; to wit, at, &c. in, &c. without lawful issue; and that the said Henry afterwards; to wit, on, &c. there also died without lawful issue; after whose decease the said premises in the said parchment and paper deeds and writings in the said declaration mentioned descended to the right honourable Frederick lord viscount Bolingbroke, as cousin and heir of the said last-mentioned Henrietta: And the said defendants further say, that after the death of the said last-mentioned Henrietta, the said plaintiff intruded himself into the premises in the said parchment and paper deeds and writings mentioned; and there found the said parchment and paper deeds and writings in the said declaration mentioned, and took the same into his possession; and afterwards; to wit, on, &c. at, &c. in, &c. casually lost the same out of his hands and possession; and the said parchment and paper deeds and writings in the said declaration mentioned, afterwards, to wit, on, &c. at, &c. in, &c. casually came to the hands and possession of the said defendants by finding the same; whereof the said viscount Bolingbroke afterwards, to wit, on, &c. at, &c. in, &c. had notice; and the said viscount Bolingbroke then and there required the said defendants to keep and detain the said parchment and paper deeds and writings in the said declaration mentioned for the use of him the said viscount Bolingbroke, for the preservation and maintenance of the estate and title of the said lord viscount B. to the said premises in the said parchment and paper deeds and writings in the said declaration mentioned; belonging to the said lord count Bolingbroke as aforesaid; wherefore the said defendants detain the said parchment and paper deeds and writ-

Plea, as to part of salary, several retainings were.
5. Eliz. of labourers, *per quod*, they were void; and
per legem, which he perfected. Demurrer to the p
Plea of usury to bond with condition to pay thirty-
alive, and if dead then twenty-six pounds, and
Entr. 168.

Plea, that writing was made to secure payment of t
bought, which defendant could buy for twenty-five
and the true price thereof was twenty-five pounds.
price of a cask of oil was thirty pounds, and trave
pounds, *Re. Entr.* 689.

Plea to bond, that bond was made for security of
wares bought of the value of two hundred pounds,
that the bond was made on good consideration,
bond was made for a just and true debt, and trave

Plea, 12. Car. 2. without reciting the statute of usur

Plea, that plaintiff reserved to be paid twenty shillin
day of payment of seven pounds for six months. 1
pounds to defendant without any consideration o
statute, and traverses usury, 1. *Bro.* 189. 201.
Tba. 157. 2. *Bro.* 66. *Hanf.* 79.

Plea, that plaintiff had depasturing of sheep for loas
315. Replication, did not depasture. Plea of ii
and issue, *Ibid.* 320. 424. 428. Replication and

Plea to bill penal by statute and five pounds paid.
and traverses corrupt agreement. Demurrer, *Clif*

Plea, that bond was void by statute of usury, by la
bond was made for payment of fifty pounds, and t
end of the year, and not before. Rejoinder ma
that the money was paid at the end of the year.

Plea, that defendant was indebted to plaintiff in five
plaintiff ten quarters of grain at a certain day, an
came bound in twenty pounds, that it was worth t
day of payment plaintiff reserved five pounds. Re
lent and five pounds paid, and five pounds to be p
fendant became bound, 2. *Bro.* 85.

Plea, that plaintiff lent defendant twenty pounds for
payment thereof for one year; writing was made
pounds, contrary, &c. Replication, that bond wa
and traverses usury. Rejoinder, and issue on the 1

Plea, plaintiff lent defendant thirty pounds for sever
payment; granted to plaintiff annual rent of three
repay plaintiff. Replication, that defendant, for
granted the said annual rent, and traverses the co
ration, and issue, *Re. Entr.* 220.

Plea, plaintiff lent defendant one hundred pounds, a
from the twentieth of October until the twentieth
himself for interest six pounds. Replication, tha
plaintiff in one hundred pounds for a true debt, a
others became bound, and traverses the usury, *Re.*

Plea, lent to defendants twenty pounds, and made th
ties for payment of three several ten pounds at sev
was one. Replication, that bond was made for 1
usury, *Vid.* 205. Like plea and demurrer, *Wi.*

declaration mentioned, and from thence hitherto hath been, and still is so seised in fee tail male of the said premises, and being so possessed of the said deeds and writings, he the said plaintiff afterwards casually lost the same out of his hands and possession, and the same came to the hands and possession of the said defendants, who found the same, and still remains in their hands in manner and form as the said plaintiff hath above in his said declaration in that behalf alledged; and this, &c.; wherefore he prays judgment, and that the said deeds and writings, together with his damages by him sustained on occasion of detaining the same, may be adjudged to him.

GEORGE WOOD.

And the said defendants, as to the said plea of the said plaintiff by him above in reply pleaded to the said plea of the said defendants by them secondly above pleaded in bar, say, that the said plaintiff, by reason of any thing by him in his said plea above in reply pleaded alledged, ought not to have or maintain his aforesaid action thereof against them; because they say (as before) that the said plaintiff intruded himself into the premises in the said parchment and paper deeds and writings mentioned, in manner and form as the said defendants have in that behalf in their said plea by them secondly above pleaded alledged; without this, that the said Henrietta, the daughter, intermarried with the said Louis Alexander Count Duroure in the said replication mentioned, in manner and form as the said plaintiff hath, in and by his said plea by him above pleaded in reply pleaded, alledged; and this, &c.; wherefore, &c. if, &c.

Rejoinder, that plaintiff intruded, and traverses that the said Henrietta married plaintiff's father.

FOSTER BOWER.

And the said plaintiff (as before) says, that the said Henrietta, the daughter, intermarried with the said Louis Alexander Count Duroure in the said replication mentioned, in manner and form as the said plaintiff hath in and by his said plea by him above in reply pleaded alledged; and this he prays may be enquired of by the country; and the said defendants do the like; therefore, &c.

Surrejoinder, issue on the marriage.

Afterwards, that is to say, on the day and at the place within contained, John Way, gentleman, being associated unto the said chief justice by force of the statute in that case made and provided, the within-named plaintiff came by his attorney within contained, and the within-named defendants, although solemnly demanded, came not, but made default; therefore let the jurors of the jury within-mentioned be taken against them by default, and the jurors of that jury being summoned came, who to say the truth of the within contents being chosen, tried, and sworn as to the first issue within joined between the parties aforesaid, say upon their oath that the said defendants detain the said parchment and paper deeds and writings in manner and form as the said plaintiff within complains against them; and as to the last issue within joined between the parties aforesaid, the jury aforesaid, upon their oath aforesaid, further say, that the within-named Henrietta, the

Postea.

daughter,

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87. Plea (to declaration on judgment), that after the obtaining of the judgment, and before the exhibiting the bill of plaintiff, he sued out an *elegit*. Replication to the last plea.

114. Plea, 1st, *nil nisi record*; 2d. *payment* of the damages.

115. Replication, that there is such record; and two issues. One to be tried by the record, the other by the country.

396. Plea, that he paid the judgment and damages.

399. Plea of bankruptcy in bar to debt on judgment.

Plea, *nil nisi record*, *Tho.* 180. Judgment, *Ro. Ent.* 204. *Ro. Ent.* 194.

Plea to debt on judgment of *res. p. p.* in the marshal's court, that our lord king did not grant any court to hold and hear pleas between persons not of the state. Demurrer, *Wi. Ent.* 124.

Plea, *nil nisi record* in inferior court. Replication and issue, *Bro. Vad.* 244.

Plea and replication, and *certiorari* to the court of Chester, *Clif.* 148. 187.

Plea, that plaintiff brought another *scire facias* to which defendant pleaded judgment or defendant on demurrer, *Co. Ent.* 154.

That plaintiff sued out a *capias satisfactionem* on the judgment, and a warrant delivered to the sheriff of the liberty, who took defendant, and voluntarily committed him to go at large. Replication and issue, *Abb.* 237.

Plea, *nil debet* to debt on judgment in the county court, and concludes country, *Mer.* 125. Similar *nil debet*, and wages his law, 1. *Br.* 111.

Plea, *agere p. de*, 2. *Mo. Intr.* 251. *Tes.* 433.

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218. Plea, another action pending at plaintiff's suit for the

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- Detinue, plaintiff possessed of goods lost them, and they came to defendant's hands by *finding*, *Ass.* 173. 1. *Bro.* 147.
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- For a mare plaintiff lost and defendant found, *Co. Ent.* 169. 1. *Br.* 183.
- For goods delivered to J. for safe custody who lost, and defendant found them, *Ra. Ent.* 212.
- By *executor*, for goods whereof testator died possessed, which came to defendant's hands by *finding*, *Pl.* 175. *Ass.* 166.
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- Declaration in debt for a farm of cows demised for a term, and detinue for the cows, *Ass.* 181. *Mo. Int.* 149.
- Debt on single bill for payment of ten pounds, and delivery of a gelding and goods to plaintiff on day of marriage, or death of defendant, who took a wife on a day certain, *Bro. R.* 186. 1. *Br.* 104. By original, *Reg.* 139. By *executor*, for goods and chattels, *Reg.* 140.
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certain other plan, &c. &c. &c. as of his own proper plans and being so possessed thereof the said plaintiff afterwards, to wit, on, &c. casually lost said last-mentioned plans, being the rest of the plans above demanded out of his hands and possession they afterwards, to wit, on, &c. came into the hands and possession of said defendant by his finding the same: And said plaintiff says, &c. (as in the 1st Count to the end) to the damage of the said plaintiff of one hundred pounds.

V. LAW

Declaration and detinue in debt for detaining a note after plaintiff had paid the sum mentioned in the note.

LONDON, to wit. Robert Scudamore complains of William Wilson being, &c. of a plea, that he rendered to him a certain promissory note, which he unjustly detains from him, for that the said plaintiff on, &c. in, &c. made his certain note in writing commonly called a promissory note, with his own proper name and name thereto subscribed, by which said note he the plaintiff promised to pay to J. S. or order, at the time there mentioned, the sum of three pounds as for value received, which said note he the said J. S. then and there indorsed over and delivered to said defendant; and although the said plaintiff afterwards, to wit, on, &c. at, &c. fully paid and satisfied the said sum of three pounds in the said note, and after payment thereof and there requested the said defendant to deliver up to the plaintiff the said note; and although the said defendant then there had the said note in his custody, yet he the said defendant (although often thereunto requested) hath not delivered up the said note to the said plaintiff, but hath hitherto refused so to do and still unjustly detains the same. Damages ten pounds, suit

Declaration in detinue by plaintiff against defendant for not giving up plaintiff's property which he had lodged in defendant's hands for securing the payment of a sum of money due to defendant, on plaintiff's rendering the money that was due.

3d Count.

MIDDLESEX, to wit. Michael Gorman complains of Mary Barrett, widow, being, &c. of a plea that she rendered him goods and chattels of the value of sixty pounds, which he unjustly detains from him, for that whereas he the said Michael on, &c. at, &c. was possessed of divers goods and chattels to wit, two table cloths, &c. to the value of twenty pounds, his own proper goods and chattels, and being so possessed thereof he the said Michael afterwards, the same day and year, casually lost the said goods and chattels above particularly mentioned out of his hands and possession, which said goods and chattels afterwards, to wit, on, &c. came to the hands and possession of the said Mary, whereby an action hath accrued to the said Michael to demand and have the said goods and chattels he the said Michael above particularly mentioned; and also whereas the said Michael on, &c. at, &c. borrowed of the said Mary several sums of money amounting in the whole to the sum of seven pounds five shillings and sixpence, to be paid by the said Michael to the said Mary when he should be thereto afterwards requested; and for

- own hand; knows not if conditions be or be not performed; and prays H. may be summoned, *sci. fa.* awarded, who prays imparlance and hath it.
- Plea, *non detinet* to the country, *Ra. Ent.* 212. *A/b.* 165. *Pl. Gen.* 314. wager of law, 1. *Bro.* 355. *Ra. Ent.* 211. *A/b.* 165.
- Confession of action to part, *non detinet* and wager to residue, *Pl. Gen.* 372. 1. *Br.* 120.
- Non detinet per patriam*, having withdrawn plea *per legem*, 3. *Br.* 186.
- Plea, that plaintiff delivered to defendants a horse to be delivered to J. and defendants so delivered him, 21. *E.* 4. 45.
- Plea, that horse at the time of the delivery was infirm, and detained on account of various infirmities, and afterwards died. Replication, that the horse was sound, and traverses that the horse was infirm, 21. *E.* 4. 55.
- Plea, that plaintiff pledged goods to J. for money borrowed, J. died intestate, and administration was committed to defendant, who took the goods and detained them for money unpaid, and traverses that plaintiff delivered the said J. the goods to be safely kept, and re-delivered on request, *Ra. Ent.* 212.
- Plea, that the bishop being seised of the hundred had an estray there, and defendant, his bailiff, seized the mare, and made proclamation on the ninth of October; plaintiff claimed the mare, but refused to pay for the depasturing, *per quod detinet*. Replication, that on tenth of June plaintiff claimed the mare, and tendered defendant three shillings and fourpence for depasturing, and traverses that the mare remained as an estray from the twenty-ninth of May to the tenth of October. Rejoinder, maintains plea, and traverses tender, *Co. Ent.* 169. 3. *Br.* 183.
- Plea, that S. being seised of a manor had *bona quarricata* there, and defendant as bailiff of the manor took waif by a person unknown. Replication, that one W. stole the goods of plaintiff, who, on fresh pursuit took him, and on indictment was found guilty, and writ of restitution awarded, and traverse waif by person unknown, *A/b.* 173.
- Plea, *non detinent* and wager to part; to residue, defendant levied his plaint against plaintiff in the sheriff's court in London, and the goods were thereupon attached, and condemnation after four defaults. Replication, *nul nil record*, *Ra. Ent.* 212.
- Plea to detainue, brought by *executor*, that before proving the will, administration was granted to L. who sold the goods to defendant, Demurrer, *Pl.* 275. *A/b.* 157.
- Plea to detainue for a horse that plaintiff delivered horse to depasture at his own risque, *absque hoc*, that horse was delivered for safe custody. Replication, delivered for safe custody, and issue. 1. *Bro.* 149.
- Plea to detainue of goods on *emisset*, defendant says, that plaintiff after the bargain commanded him to sell them. Replication, and issue on the order, 1. *Bro.* 249.
- Plea to detainue for sheep, *uncore prist*, and prays a day to deliver them, being *feræ naturæ*, *Bro. Vad.* 497. 1. *Bro.* 149. plaintiff goes for damages. Replication, that defendant refused to deliver. Rejoinder, as before on tender, and issue, *Ibid.*
- Plea, *non detinet* to part; and to residue, that the wife, whilst *sole*, pledged to be kept *quousque*, &c. Replication, that plaintiff being possessed of a ring, lost it, and defendant found, and traverses pledging by wife and issue, *Cl. Aff.* 142.
- Non debet nil detinet* to the country, *Bro. R.* 259. *Pl. Gen.* 251. *Mc. Intr.* 205. *A/b.* 221. *Non debet nil detinet*, and wager, to part, *Ibid.* 373.
- Non debet* to the country; to *mutuatus*, confession of action to goods, *Pl. Gen.* 255.

INTERPLEADER.

- Plea (to declaration by A. and another by B. on two *bonds* delivered to testator for safe custody) by defendant to both declarations in one plea, that they were delivered

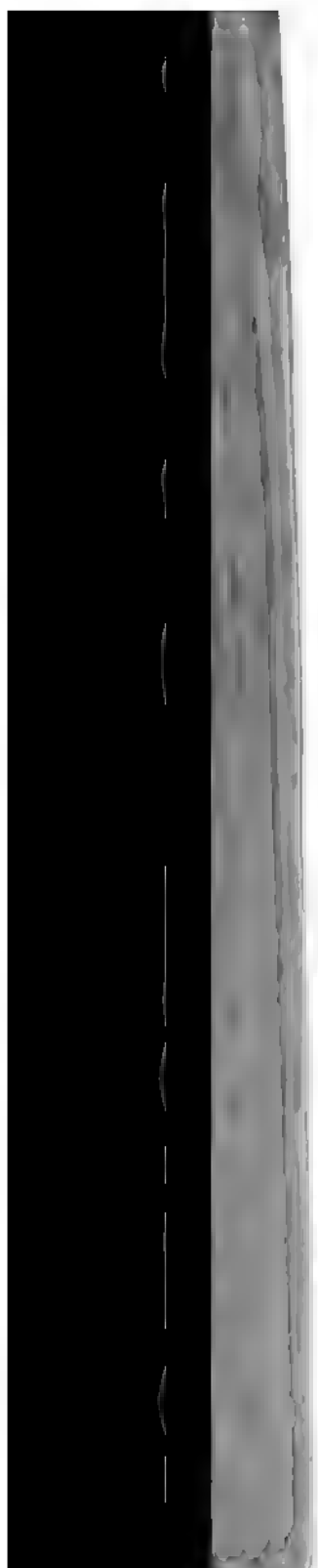
Declaration in
detinue, for
keeping papers
and deeds of an
estate.

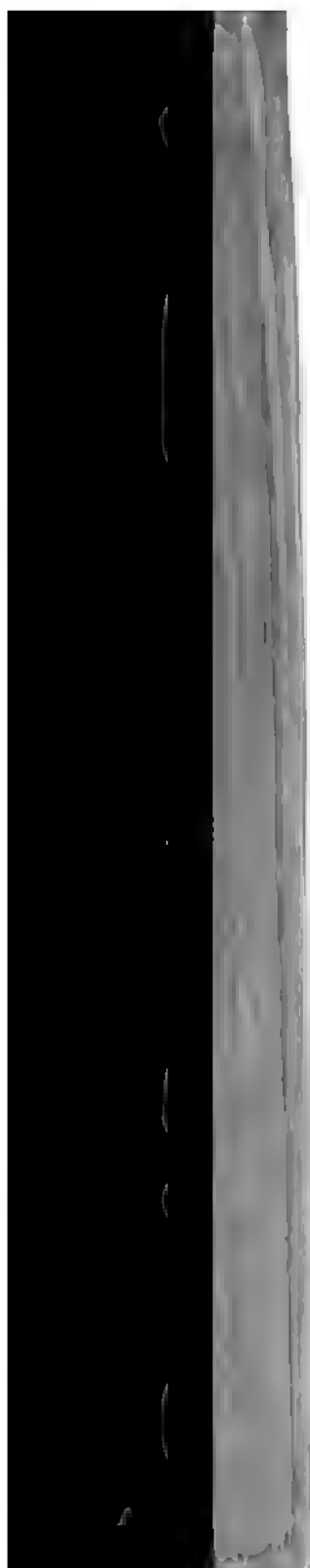
**DUROURE, ESQ. OTHER-
WISE COUNT D. v.
Burrard, Bart. and
OTHERS.**

**MIDDLESEX, to wit.
Henry Scipio de Grimvard de
vois Duroure, esquire, com
of Sir Harry Burrard, baronet,**

Snell, esquire, and Oliver Cromwell, esquire, being, &c.
plea that they render to the said plaintiff certain parchment
paper deeds and writings, which they unjustly detain from
For that whereas the said plaintiff on, &c. at, &c. in, &c.
seised in his demesne as of fee, or of some other estate of an
certain messuage or dwelling-house, and one rood of land
the appurtenances, situate in Albermarle-street, Westminster
the said county of Middlesex, and was possessed of certain
ments, and paper deeds, and writings relating to and concern
his title thereto, to wit, one indenture of lease, and one
ture of release, dated respectively the twenty-first and tw
second days of June 1703, made or mentioned to be ma
tween the right honourable Henry lord Dover, baron of
in the county of Kent, of the one part, and John Chamber
of the parish of St. James's, Westminster, in the county of
dlesex, carpenter, and Thomas Betts, of the Inner Temple,
don, esquire, and William Betts, of Lincoln's-inn, gentl
of the other part; one indenture of bargain and sale, inrol
Chancery, dated the twenty-second day of June 1703, ma
mentioned to be made between the parties named in the ind
last above-mentioned, one indenture of assignment quarterp
dated the twenty-second day of June 1703, made or mentio
be made between the said Henry lord Dover, of the first
Henry Pooley, of the second part; John Chamberlayne,
third part; and George Chamberlayne, of the fourth part
other indenture of lease, and one other indenture of release,
respectively the twentieth and twenty-first day of January
made or mentioned to be made between the said John Cha
layne and Thomas Betts of the one part, and Henry St.
esquire, and Richard Cooper, gentleman, of the other part
other indenture of bargain and sale, inrolled in Chancery,
the said twenty-first day of January 1703, made or mentio
be made between the parties named in the last before-men
indentures, one other indenture of assignment, &c. &c.
were several other deeds] of the said plaintiff, as of his own
per deeds and writings as relate to and affect and concern th
of the said plaintiff to the said premises, with the appurten
are, were, and are in full force and virtue, and of a great
to wit, of the value of forty thousand pounds, and the said pl
being so thereof possessed, and also seised of the said premi
aforesaid, he the said plaintiff, afterwards, to wit, on, &c. a
in, &c. casually lost the said deeds and writings out of his
and possession, which said deeds afterwards, to wit, on, &c.
&c. in, &c. casually came into the hands of the said defen
who found the same, and still remain and continue in their h
yst the said defendants, although often requested, &c. hav





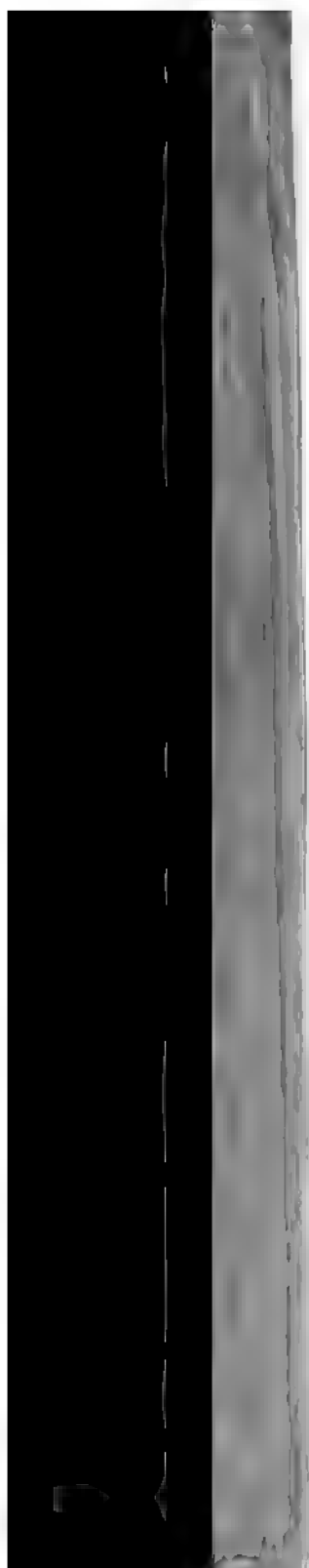


Judgment
plaintiff.

for

daughter, intermarried with the within-named Lewis Alex
Count Duroure in the within replication mentioned, in m
and form as the within plaintiff hath in and by his within pl
him in reply pleaded alledged, and they assess the damages of th
plaintiff for the said detinue to one shilling, besides his costs
charges by him about his suit in this behalf expended, an
those costs and charges to forty shillings: Therefore
considered that the said plaintiff do recover the said p
ment and paper deeds and writings in the said declaration
tioned, or the value thereof, together with his damages,
and charges aforesaid, in form aforesaid assessed, by reason
said detinue; and also eighty seven pounds nineteen shillin
his costs and charges by the court here adjudged to the said
tiff of increase by his assent, which damages in the whole a
to ninety pounds; and the said defendants, in mercy, &c.

DETINUE



commanded him to sell them ; replication, denying the command, and request judgment by *non sum informatus in detinue*,
- - - - -

2. Mcd. l.

DEEDS. WRITINGS.

Plea, always ready to deliver the deed and *proferre in curia*, which, and plaintiff it, *Cl. Aff.* 113. *Br. Rad.* 497. *H. n.* 120.

Plea as to bond, *non detinet*, wager, law—to the other writing always ready
177.

Plea (to *detinue* for a bag with writings), by *administrator*, that J. made de his executor, and traverses that he died intestate, *Ra. Ent.* 200.

Plea, that plaintiff lost the writing, and J. found it, to whom plaintiff released being thereof possessed as of his own, &c. gave it to defendant, *Ibid.*

Plea, that plaintiff delivered the writing to defendant on condition of performance award, which was not made, *Ra. Ent.* 215. *Abb.* 172.

Plea, that there were differences between plaintiff and B. concerning the box, and B. and plaintiff delivered to defendant the box, on condition that if B. should word of mouth direct the box to be delivered to plaintiff, then to be delivered otherwise not—that B. did not, &c. ; replication, that the box was delivered to defendant to be delivered on request, and traverses the delivery on request, *Ra. Ent.* 214.

Plea, that boxes were delivered to defendant by garnishee, and the mare by plaintiff hand, on condition of paying plaintiff one hundred pounds on a day certain, the boxes were to be delivered to him, otherwise to defendant, that he tendered plaintiff the money, and plaintiff refused it ; replication, did not tender, *Ra. Ent.* 215.

Plea, that lands descended to defendant as cousin-german ; replication, that lands descended to plaintiff as cousin-german, and traverses that W. had a brother called R. *Ra. Ent.* 213.

Plea, that E. being seised of the manor, and possessed of the deeds, gave the manor to F. in tail, and delivered to them the deeds ; manor descended to J. son of W. plaintiff *introducere* after his death, and found the deeds which he lost, and defendant found ; replication, that F. had no son called W. *Ra. Ent.* 210.

Plea, that W. being seised enfeoffed to defendant and S. whom defendant released and was seised until R. disseised him and gave lands to plaintiff. Replication, *non disseisavit*, *Ra. Ent.* 211.

Plea (to *detinue* by a remainder-man in tail in trover of a deed of gift of land in tail), that the prior tenant in tail made a feoffment to J. and suffered recovery of his use in fee, and since made a feoffment to the use of himself for life, and then to defendant in tail, and delivered the deed to maintain title. Replication, that the tenements did not pass by the recovery, 3. *Br.* 178.

Plea, always ready to deliver the deed, *Abb.* 423. To deliver the deed to whom, &c. *Ibid.*

Plea (of two writings delivered on condition to perform an award) that award not made ; one writing delivered to plaintiff, the other to garnishee, *Ra. Ent.* 215.

Plea, that box with deeds were delivered to him by plaintiff, and one R. prays that R. may be summoned, who on *fi. fa.* appears, and pleads to plaintiff, *Ra. Ent.* 214.

Plea by defendant, after impaunce brings writings into court, and says, that the writing was delivered to him by plaintiff and one M. and the mare by

own hand; knows not if conditions be or be not performed; and prays H. may be summoned, *sci. fa.* awarded, who prays imparlance and hath it.

a, *non detinet* to the country, *Ra. Ent.* 212. *A/b.* 165. *Pl. Gen.* 314. wager of law, 1. *Bro.* 355. *Ra. Ent.* 211. *A/b.* 165.

confession of action to part, *non detinet* and wager to residue, *Pl. Gen.* 372. 1. *Bro.* 20.

non detinet per patriam, having withdrawn plea *per legem*, 3. *Br.* 186.

a, that plaintiff delivered to defendants a horse to be delivered to J. and defendants so delivered him, 21. *E.* 4. 45.

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a, that the bishop being seised of the hundred had an estray there, and defendant, his bailiff, seized the mare, and made proclamation on the ninth of October; plaintiff claimed the mare, but refused to pay for the depasturing, *per quod detinet*. Replication, that on tenth of June plaintiff claimed the mare, and tendered defendant three shillings and fourpence for depasturing, and traverses that the mare remained as an estray from the twenty-ninth of May to the tenth of October. Rejoinder, maintains plea, and traverses tender, *Co. Ent.* 169. 3. *Br.* 183.

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a to detain, brought by *executor*, that before proving the will, administration was granted to L. who sold the goods to defendant, Demurrer, *Pl.* 275. *A/b.* 167.

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a to detain of goods on *emisset*, defendant says, that plaintiff after the bargain commanded him to sell them. Replication, and issue on the order, 1. *Bro.* 249.

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a, *non detinet* to part; and to residue, that the wife, whilst *sole*, pledged to be kept *quousque*, &c. Replication, that plaintiff being possessed of a ring, lost it, and defendant found, and traverses pledging by wife and issue, *Cl. Aff.* 142.

non debet nil detinet to the country, *Bro. R.* 259. *Pl. Gen.* 251. *Mc. Intr.* 205. *A/b.* 221. *Non debet nil detinet*, and wager; to part, *Ibid.* 373.

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INTERPLEADER.

a (to declaration by A. and another by B. on two *bonds* delivered to testator for safe custody) by defendant to both declarations in one plea, that they were delivered

